

FCC 271 Checklist Item 4 Line sharing Quotes

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
BellSouth	AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	130	232
					As in past Section 271 orders, our conclusion is based on a review of BellSouth's performance for all loop types, including voice grade loops, x-DSL capable loops, high capacity loops and digital loops, as well as our review of BellSouth's hot cut, line-sharing and line splitting processes
BellSouth	AL, KY, MS, NC and SC	WC Docket No 02-150	FCC 02-260	143	248
					<i>Line Sharing</i> We find, as did the state commissions, that BellSouth offers nondiscriminatory access to the high frequency portion of the loop in each applicable state We note that competitive LECs in Mississippi and South Carolina have not yet ordered any line-sharing arrangements from BellSouth. Because order volumes for line-shared loops are low in each of the states, we look to BellSouth's line-sharing performance in Georgia to inform our analysis We further note that no party has alleged that BellSouth's line-sharing offerings in Mississippi and South Carolina fail to provide nondiscriminatory access to high frequency portion of the loop
BellSouth	AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	144	250
					We also reject Covad's claim that BellSouth's line-sharing provisioning and maintenance and repair performance precludes a grant of long distance authority Although BellSouth's performance with regard to certain measures-customer trouble reports within 30 days of installation and repeat trouble reports within 30 days of maintenance or repair-is out of parity in certain months, we find these disparities in reported performance do not warrant a finding of checklist noncompliance
BellSouth	AL, KY, MS, NC and SC	WC Docket No 02-150	FCC 02-260	145	250
					BellSouth generally performed at or above parity with regard to line-sharing maintenance, as measured by its trouble report rate for line-sharing arrangements, during the relevant period In these circumstances, we conclude that BellSouth's customer trouble report and repeat trouble report rates for line sharing do not support a finding of checklist noncompliance.
BellSouth	AL, KY, MS, NC and SC	WC Docket No 02-150	FCC 02-260	143-144	249
					Because BellSouth's performance data show that it installs line-sharing arrangements in accordance with the standards approved by the state commissions, we reject Covad's reliance on BellSouth's alleged failure to provision line-sharing arrangements within the time frame specified in its interconnection agreement with Covad Given that BellSouth's line-sharing provisioning intervals for its retail customers and competitive LECs are comparable, and recognizing BellSouth's timeliness performance during the relevant period in Georgia, we find that BellSouth's installation performance does not warrant a finding of checklist noncompliance
BellSouth	AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	H-27	50
					On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
BellSouth	AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	H-27	51
To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas Orders</i>					
BellSouth	FL and TN	WC Docket No. 02-307	FCC 02-331	68	132
As in past Section 271 orders, our conclusion is based on a review of BellSouth's performance for all loop types, including voice grade loops, x-DSL capable loops, high capacity loops, and digital loops, as well as our review of BellSouth's hot cut, line-sharing and line splitting processes					
BellSouth	FL and TN	WC Docket No. 02-307	FCC 02-331	77-78	144
<i>Line Sharing</i> We find, as did the state commissions, that BellSouth offers nondiscriminatory access to the high frequency portion of the loop in Florida and Tennessee. BellSouth has provisioned 2,850 line sharing arrangements in Florida and 931 linesharing arrangements in Tennessee, as of July 2002. We recognize that BellSouth's performance in Florida and Tennessee, with respect to one installation timeliness measure was out of parity for several months. We note, however, that the data under another installation timeliness metric-percent missed installation appointments-shows that BellSouth generally provisioned line shared loops in timely fashion during the relevant period. Accordingly, we find that BellSouth's provisioning of line-shared loops satisfies checklist item 4. Should BellSouth's performance in this area deteriorate, we will pursue appropriate enforcement action					
BellSouth	FL and TN	WC Docket No. 02-307	FCC 02-331	D-30	50
On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)					
BellSouth	FL and TN	WC Docket No. 02-307	FCC 02-331	D-30	51
To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas Orders</i>					
BellSouth	GA and LA	CC Docket No. 02-35	FCC 02-147	128-9	218
Our conclusion is based on our review of BellSouth's performance for all loops types which include, as in past section 271 orders, voice grade loops, xDSL-capable loops, digital loops, and high capacity loops, and our review of BellSouth's processes for hot cuts, line sharing and line splitting					
BellSouth	GA and LA	CC Docket No. 02-35	FCC 02-147		
Based on the evidence in the record, we find, as did the Georgia Commission, that BellSouth demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop BellSouth offers line sharing in Georgia and Louisiana under its interconnection agreements and the terms of its tariff, in accordance with the requirements of the Line Sharing Order and the Line Sharing Reconsideration Order					

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
Qwest	AZ	WC Docket No. 03-309	FCC 03-309	14	26
Our conclusion is based on our review of Qwest's performance for all loop types-which include, as in past section 271 orders, voice grade loops, xDSL capable loops and high capacity loops-as well as hot cut provisioning and our review of Qwest's processes for line sharing and line splitting					
Qwest	AZ	WC Docket No. 03-309	FCC 03-309	C-27	51
To determine whether a BOC makes Line Sharing available consistent with Commission rules set out in the Line Sharing Order, the Commission examines categories of performance measurements identified in the Bell Atlantic New York and SWBT Texas orders.					
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	182	335
Our conclusion is based on our review of Qwest's performance for all loop types-which include, as in past section 271 orders, voice grade loops, xDSL capable loops and high capacity loops-as well as hot cut provisioning and our review of Qwest's processes for line sharing and line splitting					
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	189	342
<i>Line Sharing and Line Splitting</i> We find that Qwest demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop, and access to network elements necessary for competing carriers to provide line splitting. Qwest provides line sharing pursuant to its SGAT and state-approved interconnection agreements. According to Qwest, as of September 30, 2002, it had in service approximately 5,885 unbundled shared loops in Colorado, 4 unbundled shared loops in Idaho, 312 unbundled shared loops in Iowa, 309 unbundled shared loops in Montana, 126 unbundled shared loops in Nebraska, no unbundled shared loops in North Dakota, 1,858 unbundled shared loops in Utah, 5,850 unbundled shared loops in Washington, and 95 unbundled shared loops in Wyoming					
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	189	343
Both Covad and Touch America argue that Qwest's performance under measures of maintenance and repair timeliness reveals multiple disparities. We recognize that Qwest's performance with regard to line sharing maintenance and repair measure-the All Troubles Cleared Within 24 Hours metric-is out of parity for some months in Colorado, Utah, and Washington, but we do not find that these disparities warrant a finding of checklist noncompliance given the relatively low volumes observed during these months and the difficulties associated with drawing strong conclusions based on low volumes of data.					
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	190	344
We note that Qwest's performance with regard to two other line-sharing maintenance and repair measures-the All Troubles Cleared Within 48 Hours and the Mean Time to Restore metrics-is also out of parity for some recent months in Colorado, Utah and Washington. First, the All Troubles Cleared Within 48 Hours metric shows that Qwest missed the parity standard for two of the relevant months in Colorado, Utah and Washington. Next, Qwest's performance for the Mean Time to Restore metric indicates that Qwest missed parity for dispatch orders for two of the relevant months in Colorado and Utah, and for three of the relevant months in Washington.					

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	192	347
					Covad also argues that maintenance and repair performance for line shared loops would improve if Qwest provided competitive LECs with the same "router test" for end-to-end data continuity that Qwest provides for its own customers as part of the provisioning process. Specifically, Covad states that many of the line shared loop orders for which it receives a service order completion notice suffer from missing or incomplete cross-connects in the central office that would be detected by the use of the router test, and could be corrected prior to delivery of the line shared loop
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	193	347
					As noted above, we find that Qwest's overall performance with respect to maintenance and repair of the line shared loops is nondiscriminatory
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	K-27	50
					On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL.)
Qwest	CO, ID, IA, MT, NB, ND, UT, WA, and WY	WC Docket No. 02-314	FCC 02-332	K-27	51
					To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York and SWBT Texas Orders</i>
Qwest	MN	WC Docket No. 03-90	FCC 03-142	29	53
					Our conclusion is based on our review of Qwest's performance for all loop types-which include, as in past section 271 orders, voice grade loops, xDSL capable loops and high capacity loops-as well as hot cut provisioning and our review of Qwest's processes for line sharing and line splitting
Qwest	MN	WC Docket No. 03-90	FCC 03-142	C-26	50
					On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL.)
Qwest	MN	WC Docket No. 03-90	FCC 03-142	C-27	51
					To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York and SWBT Texas Orders</i>
Qwest	NM, OR, and SD	WC Docket No. 03-11	FCC 03-81	53	93
					Our conclusion is based on our review of Qwest's performance for all loop types-which include, as in past section 271 orders, voice grade loops, xDSL capable loops and high capacity loops-as well as hot cut provisioning and our review of Qwest's processes for line sharing and line splitting
Qwest	NM, OR, and SD	WC Docket No. 03-11	FCC 03-81	F-27	50
					On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL.)

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
Qwest	NM, OR, and SD	WC Docket No. 03-11	FCC 03-81	F-28	51
To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas Orders</i>					
SBC	AR and MO	CC Docket No. 01-194	FCC 01-338	26	51
To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas orders</i>					
SBC	AR and MO	CC Docket No. 01-194	FCC 01-338	50	104
We find that SWBT demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop. SWBT offers linesharing in Missouri and Arkansas pursuant to its interconnections agreements in accordance with the Commission's <i>Line Sharing Order</i> and <i>Line Sharing Reconsideration Order</i>					
SBC	AR and MO	CC Docket No. 01-194	FCC 01-338	47-48	97
Our conclusion is based on our review of SWBT's performance for all loop types-which include, as in past section 271 orders, voice grade loops, hot cuts, xDSL-capable loops, digital loops, and high capacity loops, and on our review of SWBT's processes for hot cuts, line sharing and line splitting.					
SBC	CA	WC Docket No. 02-306	FCC 02-330	71	123
Our conclusion is based on our review of Pacific Bell's performance for all loop types, which include voice-grade loops, x-DSL-capable loops, digital loops high-capacity loops, as well as our review of Pacific Bell's processes for hot cut provisioning, and line sharing and line splitting					
SBC	CA	WC Docket No. 02-306	FCC 02-330	76	132
<i>Line Sharing and Line Splitting</i> Based on the evidence in the record, we find, as did the California Commission, that Pacific Bell provides non discriminatory access to the high frequency portion of the loop For the relevant five-month period, Pacific Bell provisioned over 16,000 line sharing orders in California for unaffiliated competitive LECs Pacific Bell's performance data for line-shared loops demonstrates that it is generally in compliance with the parity and benchmark measures established in California					
SBC	CA	WC Docket No. 02-306	FCC 02-330	C-30	50
On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)					
SBC	CA	WC Docket No. 02-306	FCC 02-330	C-30	51
To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas Orders</i>					

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
SBC	IL, IN, OH, and WI	WC Docket No. 03-167	FCC 03-243	88	142
					Our conclusion is based on our review of Qwest's performance for all loop types-which include, as in past section 271 orders, voice grade loops, xDSL capable loops and high capacity loops-as well as hot cut provisioning and our review of Qwest's processes for line sharing and line splitting
SBC	IL, IN, OH, and WI	WC Docket No. 03-167	FCC 03-243	91	145
					Based on the evidence in the record, we find that SBC demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop. SBC's performance data for line shared loops demonstrate that it is generally in compliance with the parity and benchmark measures established in the application states
SBC	KS and OK	CC Docket No. 00-217	FCC 01-129	109	215
					We find that SWBT demonstrates that, as of June 1, 2000, it has been making line sharing available in both Kansas and Oklahoma. SWBT makes line sharing available to competing carriers in an optional amendment to the K2A and the O2A.
SBC	KS and OK	CC Docket No. 00-217	FCC 01-129	110	217
					Only recently have competing carriers started purchasing the unbundled high-frequency portion of the loop from SWBT, and even then, only one competing carrier ordered a single line shared loop. SWBT has been providing line sharing to competing carriers in Texas, however, and has been using the same provisioning and maintenance processes in Texas as it uses in Kansas and Oklahoma. In addition, because SWBT has been providing line sharing to its separate affiliate in Kansas, Oklahoma, and Texas, we can rely on SWBT's performance towards its separate affiliate to evaluate its operations in these states
SBC	MI	WC Docket No. 03-138	FCC 03-228	73	127
					Our conclusion is based on our review of Michigan Bell's performance for all loop types, which include voice grade loops, xDSL-capable loops, digital loops, high capacity loops, as well as our review of Michigan Bell's processes for hot cut provisioning, and line sharing and line splitting
SBC	MI	WC Docket No. 03-138	FCC 03-228	78	133
					<i>Line Sharing and Line Splitting</i> Based on the evidence in the record, we find, as did the Michigan Commission, that Michigan Bell provides nondiscriminatory access to the high frequency portion of the loop (line sharing). Michigan Bell had approximately 73,000 high frequency portion of the loop (HFP) UNEs in service as of the end of 2002. Michigan Bell's performance data for the line shared loops demonstrate that it is generally in compliance with the parity and benchmark measures established in Michigan
SBC	MI	WC Docket No. 03-138	FCC 03-228	81	140
					the Michigan Commission required Michigan Bell to establish procedures for migrations from line sharing to line splitting, line sharing to UNE-P, and UNE-P to line splitting

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>	
SBC	NV	WC Docket No 03-10	FCC 03-80	33	65	<i>Line Sharing and Line Splitting</i> Based on the evidence in the record, we find, as did the Nevada Commission, that Nevada Bell demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop. Given the low number of orders in Nevada, we examine Pacific Bell's performance in California. To the extent that there were discrepancies in Pacific Bell's California performance, with regard to line sharing and line splitting trouble reports after provisioning, such discrepancies in Pacific Bell's California performance with regard to line sharing and line splitting trouble reports after provisioning, such discrepancies do not appear to be competitively significant. Moreover, as discussed in the high-capacity loop section above, Pacific Bell's new line testing procedures have lowered the percentage of trouble reports.
SBC	NV	WC Docket No 03-10	FCC 03-80	D-27	50	On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL).
SBC	NV	WC Docket No 03-10	FCC 03-80	D-27	51	To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the Bell Atlantic New York and SWBT Texas Orders.
SBC	TX	CC Docket No 00-238	FCC 00-65	164	321	As with the aspects of the UNE Remand Order's revised rule 319 that were not yet in effect at the time SWBT filed its application, we conclude that it would be unfair to require SWBT to demonstrate full compliance with the requirements of the Line Sharing Order in its initial application, at a time well in advance of the implementation deadline established by the Order.
SBC	TX	CC Docket No 00-238	FCC 00-65	164	322	We find the depth and scope of this evidence sufficient to overcome the speculative concerns of some competing carriers regarding SWBT's line sharing readiness, and reject competing carrier arguments that the Commission should deny SWBT's section 271 application on the basis of its alleged failure to comply with the requirements of the Line Sharing Order.
Verizon	CT	CC Docket No. 01-100	FCC 01-208	6	10	We focus our analysis in this section on the four loop types which present issues in controversy under this checklist item, beginning with the ordering, provisioning, and maintenance repair of stand-alone x-DSL-capable loops and digital loops. We also address linesharing and high capacity loops.
Verizon	CT	CC Docket No. 01-100	FCC 01-208	7	12	Verizon relies mainly on New York performance data to support its application in Connecticut, and our analysis is based primarily on that data.

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
Verizon	CT	CC Docket No. 01-100	FCC 01-208	11-12	23
					We find that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop. Verizon offers line sharing in Connecticut under its interconnection agreements and the terms of its tariff, in accordance with the Commission's Line Sharing Order and Line Sharing Reconsideration Order. There is currently only one line-sharing arrangement in Verizon's Connecticut territory, and the Connecticut performance data shows no competitive LEC activity for line shared DSL services in March and April.
Verizon	MA	CC Docket No. 01-9	FCC 01-130	69	124
					We find that Verizon has demonstrated that it has a line-sharing and line-splitting provisioning process that affords competitors nondiscriminatory access to these facilities. In so doing, we acknowledge that the Massachusetts Department also concludes that Verizon complies with this checklist item.
Verizon	MA	CC Docket No. 01-9	FCC 01-130	96	166
					The Department of Justice recognizes that "Verizon is making efforts to resolve its line sharing implementation difficulties" and the Massachusetts Department urges us to find that Verizon provides nondiscriminatory access to the high frequency portion of the loop.
Verizon	MA	CC Docket No. 01-9	FCC 01-130	97	168
					We recognize the Department of Justice's concerns that some of the line sharing completion interval data may be inaccurate. Like the Massachusetts Department, however, we conclude that the data adequately show that Verizon has met its line sharing obligation.
Verizon	MA	CC Docket No. 01-9	FCC 01-130	94-95	165
					Because the linesharing volumes in Massachusetts have escalated only recently, however, we look to Verizon's line sharing performance in New York as well, where line sharing volumes are larger for additional evidence that Verizon is providing nondiscriminatory access to line sharing. We conclude that Verizon's line sharing OSS in New York and Massachusetts uses the same systems and offers the same functionality. Accordingly, we shall consider Verizon's limited commercial line sharing performance in Massachusetts.
Verizon	MD DC WV	WC Docket No. 02-384	FCC 03-57	71	119
					Our conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, hot cut provisioning, x-DSL capable loops, digital loops, high capacity loops, as well as our review of Verizon's processes for line sharing and line splitting.
Verizon	MD DC WV	WC Docket No. 02-384	FCC 03-57	F-27	50
					On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL).
Verizon	MD DC WV	WC Docket No. 02-384	FCC 03-57	F-28	51
					To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas Orders</i> .

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
Verizon	ME	CC Docket No. 02-61	FCC 02-187	31	44
					Our conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for hot cuts, line sharing and line splitting
Verizon	ME	CC Docket No. 02-61	FCC 02-187	36	51
					Based on the evidence in the record, we find, as did the Maine Commission, that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop Through March 2002, Verizon had provisioned 800 line sharing orders in Maine for unaffiliated competitive LECs. Verizon's performance data for lineshared DSL loops demonstrates that it is in compliance with the parity and benchmark measures established in Maine
Verizon	ME	CC Docket No. 02-61	FCC 02-187	D-27	50
					On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)
Verizon	ME	CC Docket No. 02-61	FCC 02-187	D-27	51
					To determine whether a BOC makes Line Sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the Bell Atlantic New York and SWBT Texas orders
Verizon	NH and DE	WC Docket No. 02-157	FCC 02-262	62	105
					Our conclusion that Verizon complies with checklist item 4 is based on our review of Verizon's performance for all loop types, which include, as in past 271 orders, voice grade loops, x-DSL capable loops, digital loops, and high capacity loops, as well as our review of Verizon's processes for hot cuts, line sharing, and line splitting
Verizon	NH and DE	WC Docket No. 02-157	FCC 02-262	F-27	50
					On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)
Verizon	NH and DE	WC Docket No. 02-157	FCC 02-262	F-27	51
					To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the Bell Atlantic New York and SWBT Texas orders
Verizon	NJ	WC Docket No. 02-67	FCC 02-189	68	136
					Our conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for hot cuts, line sharing and line splitting

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
Verizon	NJ	WC Docket No. 02-67	FCC 02-189	76-77	152
<p><i>Line Sharing and Line Splitting</i> We find that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop, and access to network elements necessary for competing carriers to provide line splitting. Verizon provides line sharing pursuant to its interconnection agreements and in accordance with our rules. Verizon states that it provides line sharing to competitive LECs using substantially the same methods and procedures as in the other states where the Commission has found Verizon to be checklist compliant. According to Verizon, it had in service approximately 1,800 line sharing arrangements in New Jersey as of February 2002. We note that Verizon generally has met the relevant performance standards for provisioning, maintaining and repairing line-shared loops for competitors in New Jersey. We also note that the commenters in this proceeding do not criticize Verizon's performance with regard to the provisioning, maintenance and repair of line shared loops</p>					
Verizon	NJ	WC Docket No. 02-67	FCC 02-189	C-27	50
<p>On December 9, 1999, the Commission released the <i>Line Sharing Order</i>, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL.)</p>					
Verizon	NJ	WC Docket No. 02-67	FCC 02-189	C-27	51
<p>To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i>, the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas Orders</i>. The commission did not consider linesharing Check List Item</p>					
Verizon	NY	CC Docket No. 99-295	FCC 99-404		
Verizon	PA	CC Docket No. 01-138	FCC 01-269	40	76
<p>Our conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, hot cuts, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for line sharing and line splitting</p>					
Verizon	PA	CC Docket No. 01-138	FCC 01-269	40	77
<p>Finally, we note that commenters have not raised any significant issues with voice grade loops, which comprise the overwhelming majority of loops ordered by competitive LECs.²⁷²</p>					
Verizon	PA	CC Docket No. 01-138	FCC 01-269	40	272
<p>²⁷² The record reflects that in Pennsylvania, Verizon has provisioned approximately...1000 line sharing arrangements to competitive LECs as of June 21, 2001</p>					
Verizon	PA	CC Docket No. 01-138	FCC 01-269	46	88
<p><i>Line Sharing</i> We find that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop, pursuant to its interconnection agreements and in accordance with our rules. Although ordering volumes have been low, Pennsylvania performance data demonstrate that Verizon's performance for provisioning and maintaining line-shared DSL loops to competitors is generally in parity</p>					

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>
Verizon	PA	CC Docket No. 01-138	FCC 01-269	C-23	50
On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)					
Verizon	PA	CC Docket No. 01-138	FCC 01-269	C-24	51
To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the Bell Atlantic New York and SWBT Texas orders					
Verizon	RI	CC Docket No. 01-324	FCC 02-63	37	76
Our conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for hot cuts, line sharing and line splitting					
Verizon	RI	CC Docket No. 01-324	FCC 02-63	43-44	89
Based on the evidence in the record, we find, as did the Rhode Island Commission, that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop Through September 2001, Verizon had completed approximately four line sharing orders in Rhode Island for unaffiliated competitive LECs and the Rhode Island performance data show almost no competitive LEC activity for lineshared DSL services in September or October Although there has been very little ordering activity in Rhode Island for line sharing for the months reported, there has been much ordering activity in Massachusetts during the same period of time. Verizon's Massachusetts performance data demonstrate that it is provisioning lineshared DSL loops to competitors at parly with its own retail provisioning, and that its maintenance and repair performance is also acceptable					
Verizon	VA	WC Docket No. 02-214	FCC 02-297	80	138
Our conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, hot cut provisioning, x-DSL capable loops, digital loops, high capacity loops, as well as our review of Verizon's processes for line sharing and line splitting					
Verizon	VA	WC Docket No. 02-214	FCC 02-297	87	151
Line Sharing and Line Splitting. Covad argues that Verizon discriminates against competitors by refusing to provision UNE shared loops for customers served by resale voice providers Covad complains that when it submits orders for UNE line shared loops for customers served by resellers of Verizon's voice service, Verizon refuses to provision the line sharing UNE, returning a rejection notice indicating "third party voice " We disagree with Covad that Verizon is obligated to provide access to the high frequency portion of the loop when the customer's voice service is being provided by a reseller, and not by Verizon					
Verizon	VA	WC Docket No. 02-214	FCC 02-297	C-27	50
On December 9, 1999, the Commission released the <i>Line Sharing Order</i> , which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)					

<u>REGION</u>	<u>STATE</u>	<u>FCC DOCKET NO.</u>	<u>FCC PROCEEDING</u>	<u>PAGE</u>	<u>PARA</u>	
Verizon	VA	WC Docket No. 02-214	FCC 02-297	C-27	51	To determine whether a BOC makes line sharing available consistent with Commission rules set out in the <i>Line Sharing Order</i> , the Commission examines categories of performance measurements identified in the <i>Bell Atlantic New York</i> and <i>SWBT Texas Orders</i> .
Verizon	VA	WC Docket No. 02-214	FCC 02-297			Our rules do not require incumbent LECs to provide access to the high frequency portion of the loop when the incumbent LEC is not providing voice service over that loop. We disagree with Covad that Verizon is still considered the voice provider when a reseller is providing resold voice service to an end user customer. We agree, therefore, with Verizon that it is not required to provide access to the high frequency portion of the loop under these circumstances. We note that Verizon does permit the resale of its DSL service over resold voice lines so that customers purchasing resold voice are able to obtain DSL services from a provider other than Verizon
Verizon	VT	CC Docket No. 02-7	FCC 02-118	28	48	Our conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for hot cuts, line sharing and line splitting
Verizon	VT	CC Docket No. 02-7	FCC 02-118	32	55	Based on the evidence in record, we find, as did the Vermont Board, that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Joint Application by BellSouth Corporation,
BellSouth Telecommunications, Inc.,
and BellSouth Long Distance, Inc. for
Provision of In-Region, InterLATA Services
in Florida and Tennessee

WC Docket No. _____

**BRIEF IN SUPPORT OF APPLICATION BY BELL SOUTH FOR PROVISION
OF IN-REGION, INTERLATA SERVICES IN FLORIDA AND TENNESSEE**

JAMES G. HARRALSON

LISA S. FOSHEE

JIM O. LLEWELLYN

4300 BellSouth Center
675 West Peachtree Street
Atlanta, GA 30375

JONATHAN B. BANKS

1133 21st Street, N.W., Room 900
Washington, D.C. 20036

GUY M. HICKS

333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

NANCY WHITE

150 S. Monroe Street
Suite 400
Tallahassee, FL 32301
*Counsel for BellSouth Corporation and
BellSouth Telecommunications, Inc.*

MICHAEL K. KELLOGG

SEAN A. LEV

LEO R. TSAO

KELLOGG, HUBER, HANSEN,
TODD & EVANS, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900

JEFFREY S. LINDER

SUZANNE YELEN

WILEY REIN & FIELDING, LLP
1776 K Street, N.W.
Washington, D.C. 20006

*Counsel for BellSouth Corporation,
BellSouth Telecommunications, Inc., and
BellSouth Long Distance, Inc.*

HARRIS R. ANTHONY

400 Perimeter Center Terrace, Suite 350
Atlanta, GA 30346
Counsel for BellSouth Long Distance, Inc.

September 20, 2002

TABLE OF CONTENTS

INTRODUCTION AND EXECUTIVE SUMMARY.....	1
I. THE STATE PROCEEDINGS.....	5
A. Florida.....	6
B. Tennessee.....	10
II. BELLSOUTH SATISFIES THE REQUIREMENTS OF TRACK A IN BOTH FLORIDA AND TENNESSEE.....	12
III. BELLSOUTH HAS ADOPTED COMPREHENSIVE AND RELIABLE STATE-APPROVED PERFORMANCE MEASUREMENTS	14
IV. BELLSOUTH SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN FLORIDA AND TENNESSEE.	16
A. Checklist Item 1: Interconnection.....	16
1. Methods of Interconnection.....	18
2. Nondiscriminatory Access to Interconnection Trunks	20
3. Collocation.....	21
B. Checklist Item 2: Nondiscriminatory Access to Unbundled Network Elements.	25
1. Access to UNEs Generally.....	25
2. UNE Combinations.....	25
3. Pricing of Unbundled Network Elements.....	27
4. Nondiscriminatory Access to OSS..	38
a. Regionality.....	41
b. Independent Third-Party Testing	42
c. Change Management Process	47
d. BellSouth's Systems .. .	62
i. Pre-Ordering Functions.	63

ii.	Ordering and Provisioning Functions.....	66
iii.	Manual Interfaces.....	76
iv.	Maintenance and Repair Functions.....	78
v.	Billing	80
vi.	Support for CLECs	81
C.	Checklist Item 3: Poles, Ducts, Conduits, and Rights-of-Way.....	82
D.	Checklist Item 4: Unbundled Local Loops	83
1.	Stand-Alone Loops	85
a.	Hot Cuts	86
b.	Stand-Alone Loop Performance	88
c.	High-Speed Digital Loops	90
2.	Access to Subloop Elements.....	91
3.	Access to xDSL-Capable Loops	92
4.	ISDN-BRI Loop Provisioning	95
5.	Line Sharing.....	96
6.	Line Splitting	99
E.	Checklist Item 5: Unbundled Local Transport.....	99
F.	Checklist Item 6: Unbundled Local Switching.....	101
G.	Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services	102
1.	911 and E911 Services.....	103
2.	Directory Assistance/Operator Services	103
H.	Checklist Item 8: White Pages Directory Listings for CLEC Customers.....	104
I.	Checklist Item 9: Nondiscriminatory Access to Telephone Numbers....	105
J.	Checklist Item 10: Nondiscriminatory Access to Signaling and Call-Related Databases	106

K.	Checklist Item 11: Number Portability	107
L.	Checklist Item 12: Local Dialing Parity	109
M.	Checklist Item 13: Reciprocal Compensation.....	110
N.	Checklist Item 14: Resale	111
V.	BELLSOUTH'S ENTRY INTO THE INTERLATA SERVICES MARKET IN FLORIDA AND TENNESSEE WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST	113
A.	Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market.....	115
B.	Performance Remedy Plans	117
VI	BELLSOUTH'S COMPLIANCE WITH SECTION 272	119
	CONCLUSION.....	120

in various negotiated and arbitrated interconnection agreements, BellSouth continues to offer nondiscriminatory access to poles, ducts, conduits, and rights-of-way within reasonable time frames in both Florida and Tennessee. *See Milner Aff.* ¶ 89 & Exh. WKM-4. BellSouth's provision of this checklist item to CLECs in Florida and Tennessee is no different than in Georgia and Louisiana or any of the five states covered by BellSouth's recently approved application. *See id.* *See also FPSC Staff Checklist Rec.* at 114, 118; *TRA Trans* at 21-22.

BellSouth's satisfaction of Checklist Item 3 is borne out by the fact that CLECs are executing license agreements and requesting access to BellSouth's poles, ducts, conduits, and rights-of-way in Florida and Tennessee in numbers proportional to Georgia and Louisiana. As of August 15, 2002, 61 CLECs have executed license agreements for access to BellSouth's poles, ducts, conduits, and rights-of-way in Florida, and 55 have executed such agreements in Tennessee. *Milner Aff.* ¶ 90. As of the same date, 23 of the Florida CLECs with license agreements had made 380 applications for access to BellSouth's poles, ducts, conduits, and rights-of-way; 16 Tennessee CLECs had made 728 applications for access. *Id.*

In sum, BellSouth plainly satisfies the requirements of Checklist Item 3. Indeed, BellSouth's compliance is so clear that no party challenged that conclusion during the Florida or Tennessee state proceedings. *See Ruscilli/Cox Joint Aff.* ¶ 3 n 3. Nor did any party dispute BellSouth's compliance with this checklist item in the recent Georgia/Louisiana and Five State proceedings before this Commission. *GA/LA Order* ¶ 278; *Five State Order* ¶ 270.

D. Checklist Item 4: Unbundled Local Loops

As the Commission found in the *GA/LA Order*, BellSouth "provides unbundled local loops in accordance with the requirements of section 271 and [Commission] rules." *GA/LA Order* ¶ 218. *See also Five State Order* ¶ 232. Because BellSouth provides nondiscriminatory

access to unbundled local loops in Florida and Tennessee in substantively the same manner as in the other seven states in BellSouth's region that have already received section 271 approval, that finding is similarly true of this Application. *See Milner Aff.* ¶ 91. BellSouth fully complies with all of its obligations under this checklist item. *See FPSC Staff Checklist Rec.* at 119, 132-40; *TRA Trans* at 23-24.

BellSouth has a concrete and specific legal obligation in both Florida and Tennessee to provide local loop facilities on an unbundled basis, the terms of which are set forth in BellSouth's SGATs and in interconnection agreements with multiple CLECs. *See Ruscilli/Cox Joint Aff.* ¶¶ 8-9. As in the seven states for which BellSouth has already received section 271 approval, BellSouth provisions high-quality loops in a timely manner in both Florida and Tennessee, and has demonstrated its ability to satisfy all levels of reasonable customer demand. Moreover, BellSouth utilizes the same processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services throughout its region that the Commission examined and found nondiscriminatory in BellSouth's previous 271 applications. BellSouth has also complied fully with its obligations under the *Line Sharing Order*,⁵⁸ the *Line Sharing Reconsideration Order*,⁵⁹ and the *UNE Remand Order*.

BellSouth offers CLECs local loop transmission from the central office to the customer's premises, unbundled from local switching and other services. As of July 31, 2002, BellSouth

⁵⁸ Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*"), *vacated and remanded*, *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

⁵⁹ Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 16 FCC Rcd 2101 (2001) ("*Line Sharing Reconsideration Order*").

had provisioned 166,168 loops in Florida and 50,886 in Tennessee. *See Milner Aff* ¶ 98.

Overall, throughout BellSouth's region, BellSouth has provisioned more than 400,000 loops.

See id

1. Stand-Alone Loops

In both Florida and Tennessee, BellSouth offers a variety of loop types to CLECs, including SL1 voice grade loops, SL2 voice grade loops, 2-wire ISDN digital grade loops, 56 or 64 kbps digital grade loops, 4-wire DS1 loops, and various high-capacity and xDSL-capable loops. *See Milner Aff* ¶ 96.⁶⁰ In addition, BellSouth provides CLECs with unbundled loops in those instances where the customer was previously served by IDLC. *See id* ¶ 99. CLECs can access unbundled loops at any technically feasible point, and BellSouth provides access to all the features, functions, and capabilities of the loop. *See id* ¶ 92; *New York Order* ¶¶ 273, 275. CLECs seeking additional loop types can take advantage of BellSouth's BFR process. *See Milner Aff* ¶ 97; *Ruscilli/Cox Joint Aff.* ¶¶ 12-13.

As demonstrated below, comprehensive performance data demonstrate that BellSouth's processes and procedures for the ordering, provisioning, and maintenance of unbundled loop facilities offer CLECs in both Florida and Tennessee a meaningful opportunity to compete in the local service market. *See GA/LA Order* ¶¶ 224, 228 (analyzing BellSouth's compliance with Checklist Item 4 through performance measurements covering order processing timeliness, installation timeliness, missed installation appointments, installation quality, and the timeliness and quality of maintenance and repair functions).

⁶⁰ Both SL1 and SL2 are voice grade loops, but SL2 loops are designed. SL2 loops come with test points for mechanized trouble isolation (SMAS points), and the CLEC gets a Detailed Layout Record ("DLR") depicting the composition of the loop (what cable and pair, gauge, length to crossbox, etc.).

BellSouth's SQM plans in Florida and Tennessee are disaggregated by loop type. As demonstrated in the affidavit of Alphonso Varner and its exhibits, and as further demonstrated below, those plans provide highly disaggregated data for different loop types – including data for analog loops (designed and nondesigned, and with and without LNP), various kinds of digital loops, xDSL loops, and line-shared loops. BellSouth's performance in the pre-ordering, ordering, and provisioning of unbundled loops, as captured by these comprehensive measures, demonstrates that CLECs have nondiscriminatory access to local loop transmission. *See generally Varner Aff. Exhs. PM-2 ¶¶ 106-161 (Florida), PM-3 ¶¶ 104-159 (Tennessee).*

a. Hot Cuts

BellSouth provides nondiscriminatory access to hot-cut loops in Florida and Tennessee in accordance with the Commission's standards, utilizing the exact same hot-cut processes and procedures that the Commission approved in its *Five State* and *GA/LA Orders*. *See GA/LA Order* ¶ 220; *Five State Order* ¶ 234. Specifically, BellSouth performs coordinated conversions in a timely manner, with minimal service disruption, and with few troubles following installation. *See GA/LA Order* ¶ 220, *Five State Order* ¶ 234.

BellSouth has developed three different hot-cut processes, allowing CLECs to select the particular method that best fits their business plan and their customers' needs. Two of these processes (the time-specific cutover and the non-time-specific cutover) involve order coordination between BellSouth and the requesting CLEC, while the third process (the date-specific cutover) does not involve any such coordination. *See Milner Aff. ¶¶ 124-125.* In the third method, the CLEC simply specifies a date for the desired conversion to occur. *See id* ¶ 126.

The time-specific and non-time-specific processes are largely analogous: the difference is the time for determining the cutover. When a CLEC places an order for a time-specific conversion, the CLEC simultaneously selects the date and time for the desired conversion. *See id.* ¶ 124. For a non-time-specific conversion, the CLEC selects only the cutover *date* at the time it places the original order. *See id.* ¶ 125. Then, within 24 to 48 hours of that cutover date, BellSouth and the CLEC jointly select a mutually acceptable time for the coordinated conversion to occur. *Id.*

The Commission has noted that “[t]he ability of a BOC to provision working, trouble-free loops through hot cuts is critically important in light of the substantial risk that a defective hot cut will result in competing carrier customers experiencing service outages for more than a brief period.” *Texas Order* ¶ 256. As in the seven states for which BellSouth has already received 271 approval, BellSouth’s performance data for Florida and Tennessee demonstrate that it is doing exceptionally well in performing this “critically important” task.

In Florida, between May and July 2002, BellSouth met or exceeded every benchmark for each of the hot-cut submetrics. *See Varner Aff.* Exh. PM-2 ¶ 156. BellSouth provisioned 99.9% of scheduled conversions on time, and in fewer than 15 minutes, during this three-month time period. *See id.* Exh. PM-2 ¶¶ 5, 157 (B 2.12). BellSouth also performed these cutovers with less than 1% of service outages each month. *See id.* Exh. PM-2 Attachs. 1-3 (B.2.12.2, B.2.16.2). This is far superior to the applicable standard. *See KS/OK Order* ¶ 204; *New York Order* ¶ 302. In addition, CLECs reported trouble on only 1.2% of converted circuits (B 2.17), which is well-within the benchmark established by BellSouth’s SQM and in line with this Commission’s standards. *See Varner Aff.* Exh. PM-2 ¶ 161.

BellSouth's Tennessee performance is also excellent, meeting or exceeding every benchmark for each of the hot-cut submetrics. *See id.* Exh. PM-3 ¶ 151. From May through July 2002, BellSouth completed 809 of the 809 scheduled conversions on time between May and July 2002. *See id.* Exh. PM-3 ¶ 152 (B.2.12). BellSouth performed these cutovers with less than 1% of service outages each month, again exceeding the applicable standard. *See id.* Exh. PM-3 Attachs. 1-3 (B.2.12.2, B.2.16.2). During that time period, CLECs reported trouble on only 31 of 509 provisioned circuits, meeting the benchmarks in two out of three months. *See Varner Aff.* Exhs. PM-3 ¶ 156.⁶¹

There can be no serious dispute that BellSouth satisfies this Commission's standards for hot cuts in Florida and Tennessee. *See GA/LA Order* ¶¶ 220-221 (BellSouth demonstrates compliance by providing hot cuts in a timely manner, at an acceptable level of quality, with minimal service disruptions, and with a minimum number of troubles following installation); *Five State Order* ¶ 234.

b. Stand-Alone Loop Performance

In reviewing a BOC's performance for stand-alone loop provisioning, the Commission focuses upon the following categories: (i) installation timeliness; (ii) installation quality; and (iii) the quality of maintenance and repair functions. *See GA/LA Order* ¶ 224. In both Florida and Tennessee, across all loop types, BellSouth's performance has been excellent.

BellSouth provisions high-quality, unbundled voice-grade loops in a timely manner, affording CLECs serving end users in Florida and Tennessee a meaningful opportunity to compete. In Tennessee, between May and July 2002, reported performance data for analog loops

⁶¹ In July 2002, an inadvertent central office error disconnected 9 lines after they had been accepted by the CLEC. Once identified, these lines were immediately put back in service. *See Varner Aff.* Exh. PM-3 ¶ 156.

demonstrate that BellSouth has consistently met or exceeded the parity standard for both order completion intervals (or "OCIs") (B.2.1.8, B.2.1.9) and the percentage of missed installation appointments (B.2.18.8, B.2.18.9). *See Varner Aff.* Exh. PM-3 ¶¶ 134, 137. In Florida, during that same time period, BellSouth met or exceeded the retail analogues for 11 of the 16 OCI submetrics with CLEC activity,⁶² and all 16 submetrics with CLEC activity for percentage of missed installation appointments. *See id.* Exh. PM-2 ¶¶ 139, 142.

The quality of BellSouth's loop provisioning, as well as the timeliness and quality of its maintenance and repair services, has been solid in both Florida and Tennessee. *See id.* Exhs. PM-2 ¶¶ 143-148, PM-3 ¶¶ 138-143. In the few instances in which BellSouth missed an installation quality submetric, the small volume of trouble reports precluded a meaningful comparison to the retail analogue. *See id.* Exh. PM-2 ¶ 143. For those I-30 (troubles within 30 days of installation) submetrics for which there are sufficient volumes to offer a statistically significant portrait of BellSouth's performance, BellSouth has consistently met the parity standard. *See id.* Exhs. PM-2 ¶ 143, PM-3 ¶ 138 (B.2.19 8.1.1) (2-wire analog loop design/<10 circuits/dispatch).

For designed two-wire analog loops, between May and July 2002, in both Florida and Tennessee, BellSouth met a greater percentage of maintenance and repair appointments for CLEC customers than it did for its own retail customers (B.3.1.8). *See id.* Exhs. PM-2 ¶ 146 (6 of the 6 submetrics in Florida), PM-3 ¶ 142 (5 of the 6 submetrics in Tennessee). For non-

⁶² CLEC orders in these submetrics are scheduled based on the standard ordering guide, which carries a minimum four-day interval for these orders. *See Varner Aff.* Exh. PM-2 ¶ 139. The retail analogue for the majority of CLEC orders in these measurements, however, is residence and business (POTS) type orders, which are scheduled based on the due date calculator, and thus may be scheduled and completed in less than one day. *See id.* Thus, these misses do not raise any systemic issues.

designed two-wire analog loops, BellSouth met all 6 submetrics in Tennessee. *See id* Exh. PM-3 ¶ 143 (B.3.1.9).⁶³ And, in both states, BellSouth completed maintenance and repair work for both design and non-design analog loops in substantially less time for CLEC loops than for BellSouth's own retail customers (B.3.3.8, B.3.3.9). *See id* Exhs. PM-2 ¶ 149, PM-3 ¶ 144. Finally, with respect to both design and non-design analog loops, BellSouth provides high-quality maintenance and repair services, such that CLEC customers generally suffered a lower percentage of repeat troubles than did BellSouth retail customers. *See id* (B.3.4.8, B.3.4.9).

c. High-Speed Digital Loops

BellSouth has provisioned high-quality DS1 loops in a timely manner to CLECs in both Florida and Tennessee, and, though rarely ordered, BellSouth continues to offer unbundled loops of greater transmission capacity. In Florida, BellSouth met 7 of the 10 submetrics with CLEC activity between May and July 2002, missing only 29 of the more than 1,200 scheduled appointments for provisioning digital loops. *See Varner Aff* Exh. PM-2 ¶ 153 (B.2.18). In Tennessee, BellSouth met or exceeded the retail analogues for 4 of the 6 submetrics with CLEC activity in May through July 2002, missing only 46 of the 603 scheduled appointments for provisioning digital loops within that same time period. *See id* ¶ 148. Moreover, as was the

⁶³ In Florida, BellSouth met the retail analogue requirement for 3 of the 6 submetrics that had CLEC activity in May through July 2002. *See Varner Aff* Exh. PM-2 ¶ 147. For the May "Dispatched" measurement, 60 of the 104 total missed appointments were due to wet or damaged feeder cable, while another 16 were missed by less than one hour. For the May "Non-Dispatched" measurement, two of the six missed appointments were missed by less than 30 minutes each, while the other four missed appointments were due to improper order close-out procedures associated with a multi-trouble order for the same customer. Maintenance technicians have been retrained on appropriate order close-out procedures. There were 18 total missed appointments for the Non-Dispatched measurement in July. Two of the 18 were closed as Test OK/Found OK, and 15 of the remaining 16 were the result of two multiple troubles – one involving five circuits and the other involving 10 circuits. *See id*.

case in both states, the majority of these missed appointments were caused by facility issues that required construction to add facilities. *See id* Exhs. PM-2 ¶ 153, PM-6 ¶ 148.

The average OCI for DS1 loops has also been substantially shorter for CLECs than it has been for BellSouth retail customers. *See id* Exhs. PM-2 ¶ 151, PM-3 ¶ 146 (B.2.1.18, B.2.1.19). In Tennessee, BellSouth met or exceeded the retail analogues for 6 of the 6 submetrics with CLEC activity in the months of May through July 2002 for both the digital loops < & => DS1. *See id* Exh PM-3 ¶ 144. In Florida, BellSouth met or exceeded the retail analogues for 5 of the 9 submetrics with CLEC activity in the months of May through July 2002 for both the digital loops < & => DS1. *See id* Exh. PM-2 ¶ 151. The misses, however, were the result mainly of differences between the product mix of CLEC orders and the retail analogue. Specifically, more than one-half of CLEC orders in this measurement were Unbundled Digital Channel (“UDC”) circuits, which are designed circuits that require approximately 10 days completion. compared to the retail analogue, which is heavily weighted toward ADSL circuits requiring approximately 4 days completion. *See id*⁶⁴

⁶⁴ With respect to the number of provisioning troubles within 30 days, BellSouth in Florida met or exceeded the retail analogues for 3 of the 9 submetrics with CLEC activity in May through July 2002. *See Varner Aff.* Exh. PM-2 ¶ 154. Three of the six misses were in the “< DS1 / < 10 Circuits / Dispatch” measurement. Two misses were associated with “>= DS1 / < 10 Circuits / Dispatch” orders. *See id* The majority of the missed submetrics for these measures were caused by defective plant facilities, CO wiring problems, or Test OK/Found OK reports. *See id* Similarly, BellSouth in Tennessee met or exceeded the retail analogues for 2 of the 6 submetrics with CLEC activity in May through July 2002. *See id* Exh. PM-3 ¶ 149. There were 2 missed submetrics in May and June for digital loops <DS1 and 2 missed submetrics in June and July for digital loops =>DS1. *See id* The <DS1 loops showed greater than 20% of the reports being closed as “no trouble found” with the =>DS1 having approximately 40% of the reports closed as “no trouble found.” *See id*. The remainder of the reports were spread equally between the outside facilities and the equipment within the central office. *See id* In both states, however, no trends or systemic installation issues were identified for these items. *See id* Exh. PM-2 ¶ 154, PM-3 ¶ 149.

2. Access to Subloop Elements

In addition to the unbundled loops themselves, BellSouth offers CLECs the same nondiscriminatory access to subloop elements in Florida and Tennessee that it offers in its other states. *See Milner Aff.* ¶ 107. The subloop UNE has been defined as a portion of the local loop that can be accessed at accessible points on the loop. *See id.* This includes any technically feasible point near the customer's premises (such as the pole or pedestal, the network interface device, or minimum point of entry to the customer's premises), the feeder distribution interface, the Main Distributing Frame, remote terminals, and various other terminals. *See id.* BellSouth offers the following subloop elements: loop concentration/multiplexing, loop feeder; loop distribution; intrabuilding network cable; and network terminating wire. *See id.* Moreover, CLECs can request additional subloop elements via the BFR process. *See id.* As of July 31, 2002, BellSouth has provided CLECs 587 unbundled loop distribution subloop elements region-wide, of which 566 are in Florida. *See id.* ¶ 108. CLECs in Tennessee have not purchased the unbundled loop distribution subloop elements. *See id.*

3. Access to xDSL-Capable Loops

As the Commission previously found, "BellSouth demonstrates that it provides xDSL-capable loops in accordance with the requirements of checklist item 4." *GA/LA Order* ¶ 228. *See also Five State Order* ¶ 236. BellSouth utilizes the same nondiscriminatory processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services in Florida and Tennessee as it does in the other states in BellSouth's region, offering CLECs a meaningful opportunity to compete in the advanced services market. As BellSouth explained in its previous section 271 applications, because the various flavors of xDSL have different technical prerequisites and disparate tolerance for disturbing devices, CLECs requested that BellSouth create xDSL loop offerings with distinct parameters. In response to these

requests, BellSouth developed a variety of unbundled loop types for CLECs to choose from. Because BellSouth signed interconnection agreements obligating it to continue provisioning these different loop types, however, multiple product offerings have been and remain available over time. The historical evolution of BellSouth's specific xDSL loop offerings – which currently include the ADSL-capable loop; HDSL-capable loop; ISDN loop; Unbundled Digital Channel (“UDC”); Unbundled Copper Loop (“UCL”), Short and Long; and UCL-Nondesign (“UCL-ND”) – is recounted in Exhibit WKM-5 to the affidavit of W. Keith Milner.⁶⁵

BellSouth also performs loop conditioning as requested, regardless of whether BellSouth offers advanced services to the end-user customer on that loop. CLECs may select the precise conditioning (*i.e.*, loop modification) that they desire on their loop and will pay only for the level of conditioning selected. *See Milner Aff* ¶ 104 & Exh. WKM-5 ¶ 24. Through BellSouth's Unbundled Loop Modification (“ULM”) process, a CLEC can request that BellSouth modify any existing loop to be compatible with the CLEC's particular hardware requirements. *See id.* Exh. WKM-5 ¶ 24.

Under the direction of its in-region state commissions, BellSouth has also developed comprehensive, disaggregated performance metrics that capture its performance in the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services. In both Florida and Tennessee, BellSouth's performance has been nondiscriminatory across each of the categories upon which this Commission has focused its attention: (i) order processing timeliness; (ii) installation timeliness; (iii) missed installation appointments; (iv) installation

⁶⁵ As of July 31, 2002, BellSouth has provisioned the following volumes of xDSL-capable loops in Florida: 5,170 2-wire ADSL loops; 141 2-wire HDSL loops; 263 UCL (Long and Short) loops; and 5,301 UDC loops. In Tennessee, BellSouth had provisioned the following volumes of xDSL-capable loops: 1,698 2-wire ADSL loops; 46 2-wire HDSL loops; 425 UCL (Long and Short) loops, and 1,099 UDC loops. *See Milner Aff* ¶ 96.

quality; and (v) quality and timeliness of maintenance and repair. *See GA/LA Order* ¶ 228. BellSouth's comprehensive performance data clearly support the conclusion that BellSouth provides nondiscriminatory access to xDSL-capable loops and related services in compliance with Checklist Item 4.

In both Florida and Tennessee, across all five of the relevant categories and across each of its xDSL-related metrics, BellSouth's performance has been excellent. BellSouth returns LMU to CLECs in substantially the same time and manner as it is available to BellSouth's personnel. *See Stacy Aff* ¶ 365. In Florida, BellSouth returned timely responses for 91% of the 12,087 CLEC requests for electronic loop make-up information during the period May through July 2002. *See Varner Aff* Exh. PM-2 ¶ 82 (F.2.2). In Tennessee, BellSouth returned timely responses for 94% of the 2,392 CLEC requests. *See id* Exh. PM-3 ¶ 79. A root-cause analysis identified a DOM system queuing problem that resulted in longer responses for both CLECs and BellSouth alike. After BellSouth corrected the problem on June 27, it met the relevant benchmark – 95% in 1 minute – in July 2002 in both Florida and Tennessee. *See id* Exhs. PM-2 ¶ 82 & Attachs. 1-3 (99.1% in Florida), PM-3 ¶ 79 & Attachs. 1-3 (99.6% in Tennessee).

BellSouth additionally installs high-quality xDSL-capable loops in a timely manner in Florida and Tennessee. BellSouth provisions xDSL-capable loops well within the seven-day benchmark established in its state-approved performance plans, *see id*. Exhs. PM-2 ¶ 111, PM-3 ¶ 108 (B.2.2), and BellSouth has met or exceeded the applicable parity standard for missed installation appointments in May through July 2002, *id* Exhs. PM-2 ¶ 115, PM-3 ¶ 112 (B.2.18.5). Once provisioned, CLEC-ordered xDSL-capable loops experience few technical problems. Between May and July 2002, BellSouth met or exceeded the parity standard for

trouble reports within 30 days of installation for all submetrics in Tennessee and Florida. *Id.* Exhs. PM-2 ¶ 117, PM-3 ¶ 113 (B.2.19.5).

When CLECs did experience trouble on xDSL-capable loops, BellSouth handled the troubles in substantially less time than it handled the troubles for its retail units (B.3.3.5). *See id.* Exhs. PM-2 ¶ 124, PM-3 ¶ 120. BellSouth consistently made a greater percentage of repair appointments for CLECs than for its own retail customers, *see id.* Exhs. PM-2 ¶ 120, PM-3 ¶ 116 (B.3.1.5), and provided superior quality repair service, as CLECs suffered fewer repeat troubles, *see id.* Exhs. PM-2 ¶ 125, PM-3 ¶ 121 (B.3.4.5).

4. ISDN-BRI Loop Provisioning

BellSouth's performance in provisioning ISDN-BRI loops has also been excellent across each of the categories to which this Commission has directed its attention. *See GA/LA Order* ¶ 230 ("BellSouth provides ISDN loops to competitors in Georgia and Louisiana in accordance with the requirements of checklist item 4."); *Five State Order* ¶ 238. In both Florida and Tennessee, BellSouth has met or exceeded the parity standard for ISDN-BRI loops for average OCI, *see Varner Aff* Exhs. PM-2 ¶ 129, PM-3 ¶ 124 (B.2.1.6.3), and for meeting installation appointments during each month from May through July 2002, *see id.* Exhs. PM-2 ¶ 131, PM-3 ¶ 126.

With respect to the customer trouble report rate, in Tennessee, BellSouth met the retail analogue comparison for 6 of the 6 submetrics during the May through July 2002 time period. *See id.* Exh. PM-3 ¶ 129. Although BellSouth in Florida missed the retail analogue comparison for 3 of the 6 submetrics during the May through July 2002 time period, a large proportion of the reported troubles were due to defective cable pairs or circuit cards that had to be reseated. *See id.* Exh. PM-2 ¶ 134. Moreover, CLECs in Florida reported 157 troubles for the 6,643 lines in service for this submetric in May 2002, 168 troubles for the 6,570 lines in service in June 2002,

and 193 troubles for the 6,557 lines in service in July 2002. *See id* Thus, because both CLECs and BellSouth retail averaged over 97% trouble free service (including both dispatched and non-dispatched orders) in May through July 2002, CLECs were not denied a meaningful opportunity to compete. *See id*.

When CLECs do experience troubles, BellSouth has provided timely and high-quality maintenance and repair services. In both Florida and Tennessee, BellSouth routinely meets or exceeds the parity standard for missed repair appointments, *see id* Exhs. PM-2 ¶ 133, PM-3 ¶ 128 (B.3.1.6), average maintenance duration, *see id* Exhs. PM-2 ¶ 135, PM-3 ¶ 130 (B 3.3.6), and percent repeat reports within 30 days, *see id*. Exhs. PM-2 ¶ 136, PM-3 ¶ 131 (B 3.4.6).

5. Line Sharing

BellSouth has implemented line sharing in both Florida and Tennessee in full compliance with the terms of the *Line Sharing Order* and the *Line Sharing Reconsideration Order*, allowing CLECs to offer high-speed data service to BellSouth voice customers. *See Milner Aff.* ¶¶ 111, 120 & Exh. WKM-6. Specifically, line sharing is available to a single requesting carrier on loops that carry BellSouth's POTS so long as the xDSL technology deployed by the requesting carrier does not interfere with the analog voice-band transmissions. *See id* Exh. WKM-6 ¶ 5 BellSouth allows line-sharing CLECs to deploy any version of xDSL that is presumed acceptable for shared-line deployment in accordance with Commission rules and that will not significantly degrade analog voice service. *See id* At the request of the data CLECs, BellSouth voluntarily provides line splitters in 96-line unit, 24-line unit, and 8-line unit complements in Florida, and in 96-line unit, 24-line unit, and 1-line unit complements in Tennessee. *See id* ¶ 17. BellSouth utilizes the exact same processes and procedures for the pre-ordering, ordering, and provisioning of line-shared loops in Florida and Tennessee as it follows in each of the seven states for which BellSouth has received interLATA authority. *See id.* ¶ 19. Accordingly, the Commission's

conclusion that “BellSouth offers line sharing in Georgia and Louisiana . . . in accordance with the requirements of the *Line Sharing Order* and the *Line Sharing Reconsideration Order*,” *GA/LA Order* ¶ 238; *Five State Order* ¶ 248, applies with equal force here.

BellSouth developed its line-sharing product in a collaborative effort with CLECs and is continuing to work cooperatively with CLECs on an ongoing basis to resolve issues as they arise. *See Milner Aff* ¶ 115 & Exh. WKM-6 ¶¶ 6-15. BellSouth invited all interested CLECs to collaborative meetings beginning in January 2000, and 12 CLECs participated in these meetings. *See id* Exh. WKM-6 ¶ 6. The participants agreed to form several working collaborative teams to develop processes and procedures for central-office-based line sharing, which were then implemented, tested, and improved. *See id* As a result of these efforts, BellSouth was able to implement commercial line sharing by this Commission's June 6, 2000 deadline. *See id* ¶¶ 6-13. As of July 2002, BellSouth had provisioned 2,850 line-sharing arrangements in Florida, 931 line-sharing arrangements in Tennessee, and 9,770 such arrangements region-wide. *See Milner Aff* ¶ 112.

The pre-ordering, ordering, provisioning, and maintenance and repair processes for the line-sharing product are very similar to the processes for xDSL-capable loops. *Id* Exh. WKM-6 ¶¶ 20-27. CLECs obtain access to LMU in the exact same manner whether they are seeking to obtain an xDSL-capable loop or the high-frequency portion of the loop. *Id.* ¶¶ 20-21. As BellSouth has demonstrated, it offers access to the exact same LMU available to and used by its retail personnel, and in the same time and manner. *See Stacy Aff* ¶¶ 363-372. *See also Five State Order* ¶ 141; *GA/LA Order* ¶ 112.

BellSouth provisions line sharing in a timely, accurate, and nondiscriminatory manner. *See Massachusetts Order* ¶ 165 (“[A] successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates and repeat trouble report rates.”) (internal quotation marks omitted).

BellSouth routinely meets substantially the same percentage of CLEC and retail installation appointments for line shared loops. *See Varner Aff.* Exhs. PM-2 ¶ 116, PM-3 ¶ 112 (B.2.18.7). In Tennessee, BellSouth met the parity benchmark of every month between May and July 2002. *See id.* Exh. PM-3 ¶ 112. In Florida, BellSouth met the benchmark for 5 of the 6 submetrics, meeting 97.4% of installation appointments. *See id.* Exh. PM-2 ¶ 116.

Although BellSouth missed the parity benchmark in both Florida and Tennessee for many of the OCI submetrics with CLEC activity for this measure during May through July 2002, a detailed analysis has indicated that the major difference is in how BellSouth was handling the scheduling of the CLEC orders. *See id.* Exhs. PM-2 ¶ 113, PM-3 ¶ 110. To address this issue, BellSouth changed how it schedules the ADSL portion of the line sharing order. *See id.* Initial indications show that for the first two weeks after this change was implemented, the CLEC results for dispatched orders were reduced by more than three days and for non-dispatched orders by approximately 1.5 days from the actual July results. *See id.* This would have reduced the dispatched result to approximately 3.5 days and to less than 2.5 days for the non-dispatched results if applied to the full July data month. *See id.* Exhs. PM-2 ¶ 113, PM-3 ¶ 110.

With respect to provisioning troubles within 30 days, although BellSouth has not met the benchmarks in Florida, analysis of the trouble reports revealed a large number that were closed as Test OK/Found OK. *See id.* Exh. PM-2 ¶ 118. In Tennessee, although BellSouth met or exceeded the retail analogue for 3 of the 6 submetrics with CLEC activity during the months of May through July 2002, there were only 14 troubles out of 149 orders completed for the entire three-month period. There were no systemic issues identified for any of the 14 troubles during the period. *See id.* Exh. PM-3 ¶ 114.

BellSouth has met substantially the same percentage of repair appointments for CLECs as for its retail customers. *See id* Exhs. PM-2 ¶ 121, PM-3 ¶ 117 (B.3.1.7). BellSouth additionally met or exceeded the parity standard for repeat troubles for all six relevant submetrics in both Florida and Tennessee. *See id* Exhs. PM-2 ¶ 126, PM-3 ¶ 121 (B 3.4.7).

6. Line Splitting

As in its other states, BellSouth facilitates CLEC efforts to engage in line splitting in Florida and Tennessee in full compliance with the Commission's instructions. *Milner Aff* Exh. WKM-6 ¶¶ 34-46; *see also GA/LA Order* ¶ 241 ("BellSouth complies with its line-splitting obligations and provides access to network elements necessary for competing carriers to provide line splitting."); *Five State Order* ¶ 241. Specifically, BellSouth facilitates line splitting by cross-connecting an unbundled loop to a CLEC's collocation space. *Milner Aff* ¶ 120 & Exh WKM-6 ¶ 34. Once the CLEC has separated the voice from the data service, and sent the latter onto its packet-switched network, BellSouth will cross-connect the voice signal back to the BellSouth circuit switch. *Id* Exh. WKM-6 ¶ 42. In other words, BellSouth offers the same arrangement to CLECs as the Commission described in the *Texas Order* and the *Line Sharing Reconsideration Order*, and approved in its *GA/LA Order*. *See GA/LA Order* ¶ 241.

E. Checklist Item 5: Unbundled Local Transport

In compliance with the Act, BellSouth provides "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." 47 U.S.C. § 271(c)(2)(B)(v). Interoffice transmission facilities include both dedicated transport and shared transport. *Second Louisiana Order* ¶ 201. Dedicated transport is defined as "incumbent LEC transmission facilities . . . dedicated to a particular customer or carrier, that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Joint Application by BellSouth Corporation,
BellSouth Telecommunications, Inc.,
and BellSouth Long Distance, Inc. for
Provision of In-Region, InterLATA Services
in Alabama, Kentucky, Mississippi, North
Carolina, and South Carolina

WC Docket No. _____

**BRIEF IN SUPPORT OF APPLICATION BY BELL SOUTH FOR PROVISION
OF IN-REGION, INTERLATA SERVICES IN ALABAMA, KENTUCKY, MISSISSIPPI,
NORTH CAROLINA, AND SOUTH CAROLINA**

JAMES G. HARRALSON
LISA S. FOSHEE
JIM O. LLEWELLYN
4300 BellSouth Center
675 West Peachtree Street
Atlanta, GA 30375

JONATHAN B. BANKS
1133 21st Street, N.W., Room 900
Washington, D.C. 20036

FRANCIS B. SEMMES
3196 Highway 280 South, Room 304N
Birmingham, AL 35243

CREIGHTON E. MERSHON, SR.
601 West Chestnut Street, Room 407
Louisville, KY 40203
*Counsel for BellSouth Corporation and
BellSouth Telecommunications, Inc.*

June 20, 2002

MICHAEL K. KELLOGG
SEAN A. LEV
LEO R. TSAO
KELLOGG, HUBER, HANSEN,
TODD & EVANS, P L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900

JEFFREY S. LINDER
SUZANNE YELEN
WILEY REIN & FIELDING, LLP
1776 K Street, N.W.
Washington, D.C. 20006
*Counsel for BellSouth Corporation,
BellSouth Telecommunications, Inc., and
BellSouth Long Distance, Inc.*

HARRIS R. ANTHONY
400 Perimeter Center Terrace, Suite 350
Atlanta, GA 30346
Counsel for BellSouth Long Distance, Inc

Additional Counsel Listed on Signature Page

TABLE OF CONTENTS

INTRODUCTION AND EXECUTIVE SUMMARY.....	1
I. THE STATE PROCEEDINGS.....	6
A. Alabama.....	7
B. Kentucky	10
C. Mississippi.....	13
D. North Carolina.....	15
E. South Carolina.....	17
II. BELLSOUTH SATISFIES THE REQUIREMENTS OF TRACK A IN ALL FIVE STATES.....	20
III. BELLSOUTH HAS ADOPTED COMPREHENSIVE AND RELIABLE STATE-APPROVED PERFORMANCE MEASUREMENTS	24
IV. BELLSOUTH SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN ALL FIVE STATES	28
A. Checklist Item 1: Interconnection	28
1. Methods of Interconnection	30
2. Nondiscriminatory Access to Interconnection Trunks	33
3. Collocation.....	35
B. Checklist Item 2: Nondiscriminatory Access to Unbundled Network Elements	40
1. Access to UNEs Generally.....	40
2. UNE Combinations.....	40
3. Pricing of Unbundled Network Elements.....	42
4. Nondiscriminatory Access to OSS.....	59
a. Regionality	60
b. Independent Third-Party Testing.....	66
c. Change Management Process.....	69

d.	BellSouth's Systems.....	77
i.	Pre-Ordering Functions.....	77
ii.	Ordering and Provisioning Functions	80
iii.	Manual Interfaces.....	93
iv.	Maintenance and Repair Functions.....	95
v.	Billing	97
vi.	Support for CLECs	99
C.	Checklist Item 3: Poles, Ducts, Conduits, and Rights-of-Way	100
D.	Checklist Item 4: Unbundled Local Loops.....	101
1.	Stand-Alone Loops	102
a.	Hot Cuts.	104
b.	Stand-Alone Loop Performance	107
c.	High-Speed Digital Loops... ..	108
2.	Access to Subloop Elements.....	109
3.	Access to xDSL-capable Loops.....	109
4.	ISDN-BRI Loop Provisioning	113
5.	Line Sharing.....	114
6.	Line Splitting	116
E.	Checklist Item 5: Unbundled Local Transport	117
F.	Checklist Item 6: Unbundled Local Switching	118
G.	Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services	120
1.	911 and E911 Services.....	121
2.	Directory Assistance/Operator Services	121
H.	Checklist Item 8: White Pages Directory Listings for CLEC Customers	122
I.	Checklist Item 9: Nondiscriminatory Access to Telephone Numbers	123

J.	Checklist Item 10: Nondiscriminatory Access to Signaling and Call-Related Databases	124
K.	Checklist Item 11: Number Portability	125
L.	Checklist Item 12: Local Dialing Parity.....	131
M.	Checklist Item 13: Reciprocal Compensation	132
N.	Checklist Item 14: Resale.....	134
V.	BELLSOUTH’S ENTRY INTO THE INTERLATA SERVICES MARKET IN ALL FIVE STATES WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST.....	137
A.	Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market	138
B.	Performance Remedy Plans.....	141
VI.	BELLSOUTH’S COMPLIANCE WITH SECTION 272	143
	CONCLUSION.....	143

interconnection agreements, BellSouth continues to offer nondiscriminatory access to poles, ducts, conduits, and rights-of-way within reasonable time frames in each of the five states. *See Milner Aff.* ¶ 94 & Exh. WKM-4. BellSouth's provision of this checklist item to CLECs in each of the five states is no different than in Georgia and Louisiana. *See id.*

BellSouth's satisfaction of Checklist Item 3 is borne out by the fact that CLECs are executing license agreements and requesting access to BellSouth's poles, ducts, conduits, and rights-of-way in the five states in numbers proportional to Georgia and Louisiana. As of April 12, 2002, 54 CLECs have executed license agreements for access to BellSouth's poles, ducts, conduits, and rights-of-way in Alabama; 53 in Kentucky; 54 in Mississippi; 53 in North Carolina; and 52 in South Carolina. *Id.* ¶ 95 & Exh. WKM-4 ¶ 27. As of the same date, 15 of the 54 Alabama CLECs with license agreements had made 121 applications for access to BellSouth's poles, ducts, conduits, and rights-of-way; 7 CLECs had made 55 applications for access in Kentucky; 7 CLECs had made 29 applications in Mississippi; 18 CLECs had made 604 applications in North Carolina; and 11 CLECs had made 968 applications in South Carolina. *Id.* ¶ 95 & Exh. WKM-4 ¶ 28.

In sum, BellSouth plainly satisfies the requirements of Checklist Item 3. Indeed, BellSouth's compliance is so clear that no party in any of the five states' checklist-compliance proceedings challenged that conclusion. *See Ruscilli/Cox Joint Aff.* ¶ 3 n.2. Nor did any party dispute BellSouth's compliance with this checklist item in the recent Georgia/Louisiana proceeding *GA/LA Order* ¶ 278.

D. Checklist Item 4: Unbundled Local Loops

BellSouth offers CLECs local loop transmission from the central office to the customer's premises, unbundled from local switching or other services. As of March 31, 2002, BellSouth

had provisioned more than 16,000 loops in Alabama, more than 4,100 in Kentucky, more than 5,900 in Mississippi, more than 51,000 in North Carolina, and more than 15,000 in South Carolina. *See Milner Aff.* ¶ 100.

BellSouth fully complies with all of its obligations under this checklist item. BellSouth has a concrete and specific legal obligation in each of the five states to provide local loop facilities on an unbundled basis, the terms of which are set forth in BellSouth's Alabama, Kentucky, Mississippi, North Carolina, and South Carolina SGATs, and in interconnection agreements with multiple CLECs. *See Ruscilli/Cox Joint Aff.* ¶¶ 6-7. As in Georgia and Louisiana, BellSouth provisions high-quality loops in a timely manner throughout each of the five states, and has demonstrated its ability to satisfy all levels of reasonable customer demand. Moreover, BellSouth utilizes the same nondiscriminatory processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services throughout its region that the Commission examined in its Georgia/Louisiana proceeding. BellSouth has complied fully with its obligations under the *Line Sharing Order*,⁶⁰ the *Line Sharing Reconsideration Order*,⁶¹ and the *UNE Remand Order*.

1. Stand-Alone Loops

In each of the five states, BellSouth offers a variety of loop types to CLECs, including SL1 voice grade loops, SL2 voice grade loops, 2-wire ISDN digital grade loops, 56 or 64 kbps

⁶⁰ Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*"), *vacated and remanded, United States Telecom Ass'n v. FCC*, No. 00-1012, *et al.* (D.C. Cir. May 24, 2002).

⁶¹ Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 16 FCC Rcd 2101 (2001) ("*Line Sharing Reconsideration Order*").

digital grade loops, 4-wire DS1 loops, and various high-capacity and xDSL-capable loops. *See Milner Aff.* ¶ 98. In addition, BellSouth provides CLECs with unbundled loops in those instances where the customer was previously served by IDLC. *See id.* ¶ 101. CLECs can access unbundled loops at any technically feasible point, and BellSouth provides access to all the features, functions, and capabilities of the loop. *See id.* ¶ 97; *New York Order* ¶¶ 273, 275. CLECs seeking additional loop types can take advantage of BellSouth's BFR process. *See Milner Aff.* ¶ 99; *Ruscilli/Cox Joint Aff.* ¶¶ 10-11.

Comprehensive performance data demonstrate that BellSouth's processes and procedures for the ordering, provisioning, and maintenance of unbundled loop facilities offer CLECs in each of the five states a meaningful opportunity to compete in the local service market. *See GA/LA Order* ¶¶ 224, 228 (analyzing BellSouth's compliance with Checklist Item 4 through performance measurements covering order processing timeliness, installation timeliness, missed installation appointments, installation quality, and the timeliness and quality of maintenance and repair functions).

As in Georgia and Louisiana, BellSouth's SQM plans in each of the five states are disaggregated by loop type. The SQM plans were developed through a collaborative process with significant CLEC participation, and they have been approved by the regulatory commission in each of the five states. As demonstrated in the affidavit of Alphonso Varner and its exhibits, and as further demonstrated below, those plans provide highly disaggregated data for different loop types – including data for analog loops (designed and nondesigned, and with and without LNP), various kinds of digital loops, xDSL loops, and line-shared loops. BellSouth's performance in the pre-ordering, ordering, and provisioning of unbundled loops, as captured by these comprehensive measures, demonstrates that CLECs have nondiscriminatory access to local

loop transmission. *See generally Varner Aff.* Exhs. PM-2 ¶¶ 104-159 (Alabama), PM-3 ¶¶ 104-159 (Kentucky), PM-4 ¶¶ 103-153 (Mississippi), PM-5 ¶¶ 103-157 (North Carolina), PM-6 ¶¶ 103-153 (South Carolina).

a. Hot Cuts

BellSouth provides nondiscriminatory access to hot-cut loops in each of the five states in accordance with the Commission's standards, utilizing the exact same hot-cut processes and procedures that the Commission approved in its *GA/LA Order*. Specifically, BellSouth performs coordinated conversions in a timely manner, with minimal service disruption, and with few troubles following installation. *See MPSC 271 Order* at 78 ("BellSouth has met, and in some cases gone beyond, the explicit [hot-cut] requirements delineated by the FCC"); *KPSC 271 Order* at 32; *SCPSC 271 Order* at 83.

BellSouth has developed three different hot-cut processes, allowing CLECs to select the particular method that best fits their business plan and their customers' needs. Two of these processes (the time-specific cutover and the non-time-specific cutover) involve order coordination between BellSouth and the requesting CLEC, while the third process (the date-specific cutover) does not involve any such coordination. *See Milner Aff* ¶¶ 122-123. In the third method, the CLEC simply specifies a date for the desired conversion to occur. *Id.* ¶ 124.

The time-specific and non-time-specific processes are largely analogous: the difference is when the time for the cutover is determined. When a CLEC places an order for a time-specific conversion, the CLEC selects up-front the date and time for the desired conversion. *Id.* ¶ 122. For a non-time-specific conversion, the CLEC selects only the cutover *date* at the time it places the original order. *Id.* ¶ 123. Then, within 24 to 48 hours of that cutover date, BellSouth and the CLEC jointly select a mutually acceptable time for the coordinated conversion to occur. *Id.*

The Commission has noted that “[t]he ability of a BOC to provision working, trouble-free loops through hot cuts is critically important in light of the substantial risk that a defective hot cut will result in competing carrier customers experiencing service outages for more than a brief period.” *Texas Order* ¶ 256. As in Georgia and Louisiana, BellSouth’s performance data for the five states demonstrate that it is doing exceptionally well in performing this “critically important” task.

Alabama. Between January and March 2002, BellSouth met or exceeded every benchmark in Alabama for each of the hot-cut submetrics. *See Varner Aff* Exh. PM-2 ¶ 152. BellSouth provisioned 100% of scheduled conversions on time, and in fewer than 15 minutes, during the three-month period of January, February, and March 2002. *Id* Exh. PM-2 ¶ 153. BellSouth also performed these cutovers without causing a single outage. *Id* Exh. PM-2 ¶ 157. In addition, CLECs reported trouble on only one of 236 (0.4%) converted circuits (B.2.17), well within the benchmark established by BellSouth’s SQM and in line with this Commission’s standards. *See id* Exh. PM-2 ¶ 158.

North Carolina. BellSouth’s North Carolina performance is also excellent. From January through March 2002, BellSouth completed 2,744 of the 2,754 (99.6%) scheduled conversions within the 15-minute benchmark. *See id* Exh. PM-5 ¶ 151. BellSouth performed more than 99.4% of coordinated conversions without causing an outage, again far superior to the applicable standard. *See id* Exh. PM-5 ¶ 155. During that time period, CLECs reported trouble on only 19 of 2,752 (0.69%) provisioned circuits, again well within the Commission’s standard. *See id* Exh. PM-5 ¶ 156.

South Carolina. BellSouth’s South Carolina performance has been almost perfect. Between January and March 2002, BellSouth completed all 454 scheduled conversions on time,

and without a single outage on conversion. *See id.* Exh. PM-6 ¶¶ 147, 151. During that time period, CLECs reported trouble on only eight of 554 (1.44%) provisioned circuits, easily satisfying the Commission's standard. *See id.* Exh. PM-6 ¶ 152.

Kentucky and Mississippi. Hot-cut volumes have been comparatively small in both Kentucky and Mississippi, as BellSouth performed hot cuts on only four circuits in Kentucky and 21 circuits in Mississippi between January and March 2002. BellSouth's performance was perfect: BellSouth completed all hot-cut conversions on a timely basis in both Kentucky and Mississippi; BellSouth did not cause a single outage on conversion; and there were no reported troubles on any of the provisioned facilities within seven days of conversion. *See id.* Exhs. PM-3 ¶¶ 152-158, PM-4 ¶¶ 147-153. Because BellSouth utilizes the exact same hot-cut processes and procedures throughout its region, the Commission can look to other BellSouth states with larger hot-cut volumes (such as Georgia and North Carolina) for evidence that BellSouth's performance continues to be excellent when faced with substantially greater volumes of orders. *See KS/OK Order* ¶ 180 ("We also look to SWBT's performance in Texas (where SWBT has been handling commercial volumes to a greater degree and for a longer period of time) as evidence relevant to this checklist item because volumes in Kansas and Oklahoma are low."). In Georgia, BellSouth continues to meet all applicable Commission hot-cut standards. *See Varner Aff* Exhs. PM-11 to -13.

In light of this evidence, there can be no serious dispute that BellSouth satisfies this Commission's standards for hot cuts throughout the five states. *See GA/LA Order* ¶¶ 220-221 (BellSouth demonstrates compliance by providing hot cuts in a timely manner, at an acceptable level of quality, with minimal service disruptions, and with a minimum number of troubles following installation).

b. Stand-Alone-Loop Performance

In reviewing a BOC's performance for stand-alone loop provisioning, the Commission focuses upon the following categories: (i) installation timeliness; (ii) installation quality; and (iii) the quality of maintenance and repair functions. *GA/LA Order* ¶ 224. Throughout the five states, and across loop types, BellSouth's performance has been excellent.

In each of the five states, BellSouth provisions high-quality, unbundled voice-grade loops in a timely manner, affording CLECs a meaningful opportunity to compete. Reported performance data for analog loops demonstrate that BellSouth has consistently met or exceeded the parity standard for both OCIs (B.2.1.8, B.2.1.9) and the percentage of kept installation appointments (B.2.18.8, B.2.18.9) throughout the five states. *Varner Aff* Exhs. PM-2 ¶¶ 135, 138 (Alabama), PM-3 ¶¶ 135, 138 (Kentucky), PM-4 ¶¶ 129, 132 (Mississippi), PM-5 ¶¶ 134, 137 (North Carolina), PM-6 ¶¶ 129, 132 (South Carolina).

The quality of BellSouth's loop provisioning, as well as the timeliness and quality of its maintenance and repair services, have also been solid in each of the five states. In the few instances in which BellSouth missed an installation quality submetric (B.2.19.8, B.2.19.9), the small volume of CLEC orders is predominantly responsible for the disparity. In North Carolina, for example, BellSouth missed the parity standard for three submetrics in February 2002 (B.2.19.8.2.1, B.2.19.9.1.4, B.2.19.9.2.1) because CLECs reported trouble on a total of five analog loops. *See id* Exh. PM-5 ¶ 138 & Attach. 1. For those I-30 (troubles within 30 days of installation) submetrics where there are sufficient volumes to offer a statistically significant portrait of BellSouth's performance, by contrast, BellSouth has consistently met the parity standard. *See* B.2.19.8 1.1 (2-wire analog loop design/<10 circuits/dispatch). Between January and March 2002, BellSouth additionally met a greater percentage of maintenance and repair

appointments for CLEC customers than it did for its own retail customers in each of the five states (B.3.1.8, B.3.1.9), and completed maintenance and repair work in substantially less time for CLEC loops than for BellSouth's own retail customers (B.3.3.8, B.3.3.9). *See id* Exhs. PM-2 ¶¶ 142-145 (Alabama), PM-3 ¶¶ 142-145 (Kentucky), PM-4 ¶¶ 136-139 (Mississippi), PM-5 ¶¶ 141-143 (North Carolina), PM-6 ¶¶ 136-139 (South Carolina).

Finally, BellSouth provides high-quality maintenance and repair services, such that CLEC customers generally suffered a lower percentage of repeat troubles than did BellSouth retail customers (B.3.4.8, B.3.4.9). *See id* Exhs. PM-2 ¶ 145 (Alabama), PM-3 ¶ 145 (Kentucky), PM-4 ¶ 139 (Mississippi), PM-5 ¶ 143 (North Carolina), PM-6 ¶ 139 (South Carolina).

c. High-Speed Digital Loops

BellSouth has additionally provisioned high-quality DS1 loops to CLECs throughout the five states, and BellSouth continues to offer, although CLECs have yet to order, unbundled loops of greater transmission capacity. Between January and March 2002, BellSouth missed a smaller percentage of installation appointments for CLECs in provisioning DS1 loops than it did for its own retail customers (B.2.18.19). In North Carolina, where BellSouth had the largest volume of DS1 loop orders among the five states, BellSouth missed only two out of 403 installation appointments for DS1 loops. *See id* Exh. PM-5 Attach. 1. In South Carolina, BellSouth missed only one out of 349 installation appointments during that same time period. *See id* Exh. PM-6 Attach. 1. The average OCI for DS1 loops has also been substantially shorter for CLECs than it has been for BellSouth retail customers (B.2.1.19). While CLECs have, at times, reported trouble within 30 days of provisioning for a greater percentage of DS1 loops than have BellSouth retail customers, the CLECs themselves are responsible for a large percentage of the disparity.

As was true in Georgia, nearly half of all CLEC trouble reports for DS1 loops result in a finding of “no trouble.” *See GA/LA Order* ¶ 233; *Varner Aff.* Exh. PM-6 ¶ 144 (South Carolina), PM-4 ¶ 144 (Mississippi), PM-2 ¶ 150 (Alabama). BellSouth’s performance substantially improves when these improperly filed reports are factored out. *See GA/LA Order* ¶ 233.

2. Access to Subloop Elements

In addition to the unbundled loops themselves, BellSouth offers CLECs the same nondiscriminatory access to subloop elements throughout the five states that it offers in Georgia and Louisiana. *See Mulner Aff.* ¶ 109. The subloop UNE has been defined as a portion of the local loop that can be accessed at accessible points on the loop. *Id.* This includes any technically feasible point near the customer’s premises, such as the pole or pedestal, the network interface device, or minimum point of entry to the customer’s premises, the feeder distribution interface, the Main Distributing Frame, remote terminals, and various other terminals. *See id.* BellSouth offers the following subloop elements: loop concentration/multiplexing; loop feeder; loop distribution; intrabuilding network cable; and network terminating wire. *See id.* Moreover, CLECs can request additional subloop elements via the BFR process. *See id.* As of March 31, 2002, BellSouth has provided CLECs 568 unbundled loop distribution subloop elements region-wide. *See id.* ¶ 110.

3. Access to xDSL-capable Loops

BellSouth utilizes the same nondiscriminatory processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services in the five states as it does in Georgia and Louisiana, offering CLECs a meaningful opportunity to compete in the advanced services market. As BellSouth explained in its Georgia/Louisiana Application, because the various flavors of xDSL have different technical prerequisites and disparate tolerance for disturbing devices, CLECs requested that BellSouth create xDSL loop offerings

with distinct parameters. In response to these requests, BellSouth developed a variety of unbundled loop types for CLECs to choose from. Because BellSouth signed interconnection agreements obligating it to continue provisioning these different loop types, however, multiple product offerings have been and remain available over time. The historical evolution of BellSouth's specific xDSL loop offerings – which currently include the ADSL-capable loop; HDSL-capable loop; ISDN loop; Universal Digital Channel (“UDC”); Unbundled Copper Loop (“UCL”), Short and Long; and UCL-Nondesign (“UCL-ND”) – is recounted in Exhibit WKM-5 to the affidavit of W. Keith Milner.⁶²

As in Georgia and Louisiana, for the pre-ordering of xDSL-capable loops, BellSouth offers CLECs in the five states nondiscriminatory access to the actual loop makeup information (“LMU”) contained in its records and databases. *See generally Stacy Aff* ¶¶ 241-250. In full compliance with the obligations set forth in the *UNE Remand Order*, BellSouth provides CLECs access to the exact same LMU available to and used by its retail personnel, and in the same manner. *See id*; *GA/LA Order* ¶ 112 (“Based on the evidence in the record, we find . . . that

⁶² As of March 31, 2002, BellSouth had provisioned the following volumes of xDSL-capable loops in each of the five states:

Alabama: 1,200 2-wire ADSL loops; 63 2-wire HDSL loops; 316 UCL (Long and Short) loops; and 666 UDC loops.

Kentucky: 387 2-wire ADSL loops; 1 2-wire HDSL loop; 10 UCL-ND loops; and 404 UDC loops.

Mississippi: 807 2-wire ADSL loops; 42 2-wire HDSL loops; 53 UCL (Long and Short) loops; 108 UCL-ND loops; and 480 UDC loops.

North Carolina: 1,827 2-wire ADSL loops; 22 2-wire and 7 4-wire HDSL loops; 121 UCL (Long and Short) loops; 49 UCL-ND loops; and 2,454 UDC loops.

South Carolina: 419 2-wire ADSL loops; 6 2-wire HDSL loops; 121 UCL (Long and Short) loops; 24 UCL-ND loops; and 778 UDC loops.

See Milner Aff ¶ 98.

BellSouth provides competitive LECs with access to loop qualification information in a manner consistent with the requirements of the *UNE Remand Order*.”).

LMU consists of the detailed information about the loop facilities serving a particular end-user address needed to determine the feasibility of providing a desired xDSL service over a loop. BellSouth’s LENS and TAG interfaces allow CLECs to obtain real-time electronic access to the LMU contained in BellSouth’s Loop Facilities Assignment & Control System (“LFACS”). *Stacy Aff* ¶¶ 242-244. BellSouth also has implemented an enhancement such that when LFACS does not contain the requested LMU, LFACS automatically will send an electronic query to BellSouth’s Corporate Facilities Database – a digitized version of the plats available in Georgia, North Carolina, South Carolina, Florida, and 13 Alabama wire centers. *Id* ¶ 245. In the remaining in-region states, where outside plant information is stored on paper records, CLECs can request that BellSouth’s outside plant engineers perform a manual lookup should LFACS lack the desired LMU. *Id* ¶¶ 246-247; *Milner Aff* Exh. WKM-5 ¶¶ 23-24. With LMU in hand, CLECs can make their own determination as to the suitability of particular loops for the desired xDSL service.⁶³

BellSouth also performs loop conditioning as requested, irrespective of whether BellSouth offers advanced services to the end-user customer on that loop. CLECs may select the precise conditioning (*i.e.*, loop modification) they desire on their loop and will only pay for the level of conditioning selected. *See Milner Aff* ¶ 106 & Exh. WKM-5 ¶ 24. Through BellSouth’s Unbundled Loop Modification (“ULM”) process, a CLEC can request that BellSouth modify any

⁶³ BellSouth additionally offers CLECs access to its Loop Qualification System (“LQS”), a database designed for Network Service Providers (“NSPs”) to enable them to inquire as to whether plain old telephone service (“POTS”) lines will support BellSouth’s wholesale ADSL service. CLECs have electronic access to the exact same LQS database, and in the same time and manner, as NSPs. *See Stacy Aff*. ¶¶ 249-250.

existing loop to be compatible with the CLEC's particular hardware requirements. *See id.* Exh. WKM-5 ¶ 24.

Under the direction of its in-region state commissions, BellSouth has also developed comprehensive, disaggregated performance metrics that capture its performance in the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services. In each of the five states, BellSouth's performance has been nondiscriminatory across each of the categories upon which this Commission has focused its attention: (i) order processing timeliness; (ii) installation timeliness; (iii) missed installation appointments; (iv) installation quality; and (v) quality and timeliness of maintenance and repair. *See GA/LA Order* ¶ 228. BellSouth's comprehensive performance data clearly support the conclusion that BellSouth provides nondiscriminatory access to xDSL-capable loops and related services in compliance with Checklist Item 4.

Across the five states, across all five of the relevant categories, and across each of its xDSL-related metrics, BellSouth's performance has been excellent. BellSouth returns LMU to CLECs in substantially the same time and manner as it is available to BellSouth's personnel. *See Stacy Aff.* ¶ 241. Between January and March 2002, BellSouth returned electronic LMU within five minutes for more than 99% of such requests in each of Alabama, Kentucky, Mississippi, and South Carolina. *See Varner Aff* Exhs. PM-2 ¶ 77 (Alabama), PM-3 ¶ 77 (Kentucky), PM-4 ¶ 76 (Mississippi), PM-6 ¶ 76 (South Carolina). In North Carolina, BellSouth returned electronic LMU within five minutes for more than 97.5% of such requests, well above the applicable 95% benchmark. *See id.* Exh. PM-5 ¶ 76.

BellSouth additionally installs high-quality xDSL-capable loops in a timely manner in each of the five states. BellSouth provisions xDSL-capable loops well within the seven-day

benchmark established in its state-approved performance plans, *see id* Exhs. PM-2 ¶ 108 (Alabama), PM-3 ¶ 108 (Kentucky), PM-4 ¶ 107 (Mississippi), PM-5 ¶ 107 (North Carolina), PM-6 ¶ 107 (South Carolina) (B.2.2), and BellSouth has met or exceeded the applicable parity standard for missed installation appointments in January through March 2002, *id* Exhs. PM-2 ¶ 112, PM-3 ¶ 112, PM-4 ¶ 110, PM-5 ¶ 111, PM-6 ¶ 110 (B.2.18.5).

Once provisioned, CLEC-ordered xDSL-capable loops 'experience few technical problems. Between January and March 2002, BellSouth met or exceeded the parity standard for trouble reports within 30 days of installation in each of the five states. *Id.* Exhs. PM-2 ¶ 113, PM-3 ¶ 113, PM-4 ¶ 111, PM-5 ¶ 112, PM-6 ¶ 111.

When CLECs did experience trouble on xDSL-capable loops, BellSouth handled the troubles in substantially less time than it handled the troubles for its retail units (B.3 3.5). BellSouth consistently made a greater percentage of repair appointments for CLECs than for its own retail customers (B.3.1.5), and provided superior quality repair service, as CLECs suffered fewer repeat troubles (B.3 4.5). *See id* Exhs. PM-2 ¶ 121, PM-3 ¶ 121, PM-4 ¶ 116, PM-5 ¶ 120, PM-6 ¶ 116.

4. ISDN-BRI Loop Provisioning

BellSouth's performance in provisioning ISDN-BRI loops has also been excellent across each of the categories to which this Commission has directed its attention. In each of the five states, BellSouth has met or exceeded the parity standard for ISDN-BRI loops for average OCI (B.2.1.6.3) and for meeting installation appointments during each month from January through March. *See Varner Aff* Exhs. PM-2 ¶¶ 125, 127 (Alabama), PM-3 ¶¶ 125, 127 (Kentucky), PM-4 ¶¶ 119, 121 (Mississippi), PM-5 ¶¶ 124, 126 (North Carolina), PM-6 ¶¶ 119, 121 (South Carolina). CLEC ISDN loops experience few technical problems within 30 days of installation, and more than 95% of CLEC ISDN-BRI loops are consistently trouble free throughout the five

states (B.3.2.6). And when CLECs do experience troubles, BellSouth has provided timely and high-quality maintenance and repair services. In each of the five states, BellSouth routinely meets or exceeds the parity standard for missed repair appointments (B.3.1.6), average maintenance duration (B.3.3.6), and percent repeat reports within 30 days (B.3.4.6). In the rare instances where BellSouth has fallen just short of parity, the small number of CLEC ISDN-BRI loops experiencing trouble skews the picture of BellSouth's performance. *See id.* Exh. PM-4 ¶ 126. None of these minor deviations is competitively significant to CLECs. *See GA/LA Order* ¶ 230.

5. Line Sharing

BellSouth has implemented line sharing in each of the five states in full compliance with the terms of the *Line Sharing Order* and the *Line Sharing Reconsideration Order*, allowing CLECs to offer high-speed data service to BellSouth voice customers. Specifically, line sharing is available to a single requesting carrier, on loops that carry BellSouth's POTS, so long as the xDSL technology deployed by the requesting carrier does not interfere with the analog voice-band transmissions. *See Milner Aff* Exh. WKM-6. BellSouth allows line-sharing CLECs to deploy any version of xDSL that is presumed acceptable for shared-line deployment in accordance with Commission rules, and will not significantly degrade analog voice service. At the request of the data CLECs, BellSouth voluntarily provides line splitters in 96-line unit, 24-line unit, and 8-line unit compliments. *Id.* ¶ 17. BellSouth utilizes the exact same processes and procedures for the pre-ordering, ordering, and provisioning of line-shared loops in the five states as it does in Georgia and Louisiana. *Id.* ¶ 19. Accordingly, the Commission's conclusion that "BellSouth offers line sharing in Georgia and Louisiana . . . in accordance with the requirements of the *Line Sharing Order* and the *Line Sharing Reconsideration Order*," *GA/LA Order* ¶ 238, applies with equal force here.

BellSouth developed its line-sharing product in a collaborative effort with CLECs and is continuing to work cooperatively with CLECs on an ongoing basis to resolve issues as they arise. *See Milner Aff.* Exh. WKM-6 ¶¶ 6-15. BellSouth invited all interested CLECs to collaborative meetings beginning in January 2000, and at least 11 CLECs participated in these meetings. The participants agreed to form several working collaborative teams to develop processes and procedures for central-office-based line sharing, which were then implemented, tested, and improved. As a result of these efforts, BellSouth was able to implement commercial line sharing by this Commission's June 6, 2000 deadline. As of April 2002, BellSouth had provisioned 702 line-sharing arrangements in Alabama, 518 line-sharing arrangements in Kentucky, 585 line-sharing arrangements in North Carolina, and 7,900 such arrangements region-wide. *See Milner Aff.* ¶ 114.

The pre-ordering, ordering, provisioning, and maintenance and repair processes for the line-sharing product are very similar to the processes for xDSL-capable loops. *Id.* Exh. WKM-6 ¶¶ 20-27. CLECs obtain access to LMU in the exact same manner whether they are seeking to obtain an xDSL-capable loop or the high-frequency portion of the loop. *Id.* ¶¶ 20-21. As BellSouth has demonstrated, it offers access to the exact same LMU available to and used by its retail personnel, and in the same time and manner.

BellSouth provisions line sharing in a timely, accurate, and nondiscriminatory manner. *See Massachusetts Order* ¶ 165 (“[A] successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates and repeat trouble report rates”) (internal quotation marks omitted). BellSouth has met or exceeded the parity standard for order

completion throughout the five states (B.2.1.7), and BellSouth routinely meets substantially the same percentage of CLEC and retail installation appointments (B.2.18.7).

BellSouth's performance data additionally demonstrate that it offers high-quality line-shared facilities, as well as timely and quality maintenance and repair service. In North Carolina, for example, more than 97% of CLEC line-sharing arrangements were trouble-free between January and March 2002. Moreover, a full two-thirds of reported troubles in January were closed with "no trouble found," indicating that the percentage of trouble-free line-shared loops is actually higher than reported. *Varner Aff.* Exh. PM-5 ¶ 118. *See also id.* Exh. PM-2 ¶ 119 (over 70% of reported troubles in Alabama were closed as "no trouble found"). BellSouth has met substantially the same percentage of repair appointments for CLECs as for its retail customers. *See id.* Exhs. PM-2 ¶ 117 (Alabama), PM-3 ¶ 117 (Kentucky), PM-5 ¶ 116 (North Carolina). BellSouth additionally met or exceeded the parity standard for repeat troubles for all six relevant submetrics in Kentucky, and for five of six relevant submetrics in Alabama and North Carolina. *See id.* Exhs. PM-2 ¶ 122, PM-3 ¶ 122, PM-5 ¶ 121.

Moreover, although BellSouth has discovered a PMAP 2.6 problem that caused it to miss some line-sharing provisioning activity, the April results generated by PMAP 4.0 (which has corrected this problem) confirm that BellSouth's performance is compliant. In areas with activity, BellSouth met all OCI submetrics except one, and met every submetric on held orders, percent jeopardies, percent missed installation appointments, and average completion notice interval. *See Varner Aff.* ¶¶ 292-294.

6. Line Splitting

As in Georgia and Louisiana, BellSouth facilitates CLEC efforts to engage in line splitting throughout the five states in full compliance with the Commission's instructions. *Milner Aff.* Exh. WKM-6 ¶¶ 36-43; *see also GA/LA Order* ¶ 241 ("BellSouth complies with its

line-splitting obligations and provides access to network elements necessary for competing carriers to provide line splitting”). Specifically, BellSouth facilitates line splitting by cross-connecting an unbundled loop to a CLEC’s collocation space. *Milner Aff* ¶ 118 & Exh. WKM-6 ¶ 36. Once the CLEC has separated the voice from the data service, and sent the latter onto the packet-switched network, BellSouth will cross-connect the voice signal back to the BellSouth circuit switch. *Id.* Exh. WKM-6 ¶ 43. In other words, BellSouth offers the same arrangement to CLECs as the Commission described in the *Texas Order* and the *Line Sharing Reconsideration Order*, and approved in its *GA/LA Order*. See *GA/LA Order* ¶ 241.

E. Checklist Item 5: Unbundled Local Transport

In compliance with the Act, BellSouth provides “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.” 47 U.S.C. § 271(c)(2)(B)(v). Interoffice transmission facilities include both dedicated transport and shared transport. *Second Louisiana Order* ¶ 201. Dedicated transport is defined as “incumbent LEC transmission facilities . . . dedicated to a particular customer or carrier, that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting telecommunications carriers.” 47 C.F.R. § 51.319(d)(1)(i). Shared transport is defined as “transmission facilities shared by more than one carrier, including the incumbent LEC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the incumbent LEC network.” *Id.* § 51.319(d)(1)(iii).

In the *GA/LA Order*, this Commission concluded that BellSouth complies “with the requirements of this checklist item.” *GA/LA Order* ¶ 245. Because BellSouth’s terms and conditions for local transport in the five states at issue here are substantively the same as those in

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Joint Application by BellSouth Corporation,
BellSouth Telecommunications, Inc.,
and BellSouth Long Distance, Inc. for
Provision of In-Region, InterLATA Services
in Georgia and Louisiana

CC Docket No. _____

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY BELL SOUTH FOR PROVISION
OF IN-REGION, INTERLATA SERVICES IN GEORGIA AND LOUISIANA**

JAMES G. HARRALSON
FRED J. McCALLUM, JR.
JIM O. LLEWELLYN
LISA S. FOSHEE
4300 BellSouth Center
675 West Peachtree Street
Atlanta, GA 30375

BENNETT L. ROSS
125 Perimeter Center West
Room 376
Atlanta, GA 30346

VICTORIA K. McHENRY
365 Canal Street
Suite 3060
New Orleans, LA 70130

JONATHAN B. BANKS
1133 21st Street, N.W.
Room 900
Washington, D.C. 20036
*Counsel for BellSouth Corporation and
BellSouth Telecommunications, Inc*

MICHAEL K. KELLOGG
SEAN A. LEV
KELLOGG, HUBER, HANSEN,
TODD & EVANS, P L.L.C.
1615 M Street, N.W., Suite 400
Washington, D C. 20036
(202) 326-7900

JEFFREY S. LINDER
SUZANNE YELEN
WILEY REIN & FIELDING, LLP
1776 K Street, N.W.
Washington, D.C. 20006
*Counsel for BellSouth Corporation,
BellSouth Telecommunications, Inc , and
BellSouth Long Distance, Inc*

HARRIS R. ANTHONY
400 Perimeter Center Terrace
Suite 350
Atlanta, GA 30346
Counsel for BellSouth Long Distance, Inc

October 2, 2001

INTRODUCTION AND EXECUTIVE SUMMARY.....	1
I. THE STATE PROCEEDINGS.....	8
A. Louisiana.....	9
B. Georgia.....	13
II. BELLSOUTH SATISFIES THE REQUIREMENTS OF TRACK A IN BOTH GEORGIA AND LOUISIANA.....	18
III. BELLSOUTH HAS ADOPTED COMPREHENSIVE AND RELIABLE STATE- APPROVED PERFORMANCE MEASUREMENTS	21
IV. BELLSOUTH SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN GEORGIA AND LOUISIANA ...	26
A. Checklist Item 1: Interconnection.....	26
1. Methods of Interconnection	27
2. Nondiscriminatory Access to Interconnection Trunks	30
3. Collocation.....	31
B. Checklist Item 2: Nondiscriminatory Access to Unbundled Network Elements....	36
1. Access to UNEs Generally.....	36
2. UNE Combinations.....	37
3. Pricing of Unbundled Network Elements	40
a. Georgia.....	40
i. The GPSC Proceeding Setting Forward-Looking Rates for Individual Network Elements	42
ii. The GPSC Proceeding Setting Forward-Looking Rates for Access to UNE Combinations	46
iii. The GPSC's Proceeding To Set Forward-Looking xDSL Rates	47
b. Louisiana.....	48
4. Nondiscriminatory Access to OSS.....	51
a. Regionality	52

b. Independent Third-Party Testing	59
c. BellSouth's Systems	63
i. Pre-Ordering Functions.....	64
ii. Ordering and Provisioning Functions	68
iii. Maintenance and Repair Functions.....	82
iv. Manual Interfaces.....	86
v. Billing	87
d. Support for CLECs	89
e. Change Management Process	91
f. Testing Environment.....	93
C. Checklist Item 3: Poles, Ducts, Conduits and Rights-of-Way....	95
D. Checklist Item 4: Unbundled Local Loops.....	98
1. Stand-Alone Loops	99
a. Hot Cuts	100
b. Stand-Alone Loop Performance	102
c. High-Speed Digital Loops	105
2. Access to Subloop Elements.....	106
3. Access to xDSL-capable Loops.....	106
4. ISDN-BRI Loop Provisioning	111
5. Line Sharing.....	112
6. Line Splitting	114
E. Checklist Item 5: Unbundled Local Transport.....	114
F. Checklist Item 6: Unbundled Local Switching.....	116
1. Line-Side and Trunk-Side Facilities, Basic Switching Functions, Shared Trunk Ports, and Unbundled Tandem Switching.....	117
2. Vertical Features	118

3. Customized Routing.....	118
4. Usage Information Necessary for Billing	120
G. Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services	121
1. 911 and E911 Services.....	122
2. Directory Assistance/Operator Services	123
H. Checklist Item 8: White Pages Directory Listings for CLEC Customers.....	127
I. Checklist Item 9: Nondiscriminatory Access to Telephone Numbers.....	129
J. Checklist Item 10: Nondiscriminatory Access to Signaling and Call-Related Databases	130
K. Checklist Item 11: Number Portability	133
L. Checklist Item 12: Local Dialing Parity	138
M. Checklist Item 13: Reciprocal Compensation.....	139
N. Checklist Item 14: Resale	140
1. Retail Telecommunications Services in General	141
2. DSL Services	144
V. BELLSOUTH'S ENTRY INTO THE INTERLATA SERVICES MARKET IN GEORGIA AND LOUISIANA WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST.....	149
A. Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market.....	150
B. Performance Remedy Plan.....	158
VI. BELLSOUTH'S COMPLIANCE WITH SECTION 272	160
CONCLUSION.....	167

GPSC or LPSC during those agencies' checklist-compliance proceedings challenged that conclusion.

D. Checklist Item 4: Unbundled Local Loops

BellSouth offers CLECs local loop transmission from the central office to the customer's premises, unbundled from local switching or other services, thereby enabling CLECs to provide local service without replicating BellSouth's sunk investment in an infrastructure connecting each end user to the public switched telephone network. As of July 31, 2001, BellSouth had provisioned more than 84,000 loops in Georgia and more than 17,000 loops in Louisiana. *See id* ¶ 117.

BellSouth fully complies with all of its obligations under this checklist item. BellSouth has a concrete and specific legal obligation in both Georgia and Louisiana to provide local loop facilities on an unbundled basis, the terms of which are set forth in BellSouth's Georgia and Louisiana SGATs and in interconnection agreements with multiple CLECs. BellSouth provisions high-quality loops in a timely manner, and has demonstrated its ability to satisfy all levels of reasonable customer demand. Moreover, working largely through collaborative meetings with CLECs, BellSouth has developed nondiscriminatory processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services. BellSouth has complied fully with its obligations under the *Line Sharing Order*,⁸⁰ the *Line Sharing Reconsideration Order*,⁸¹ and the *UNE Remand Order*.

⁸⁰ Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 14 FCC Rcd 20912 (1999).

⁸¹ Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC

1. Stand-Alone Loops

In both Georgia and Louisiana, BellSouth offers a variety of loop types to CLECs, including SL1 voice grade loops, SL2 voice grade loops, 2-wire ISDN digital grade loops, 56 or 64 kbps digital grade loops, and various high-capacity and xDSL-capable loops. *See Milner Aff* ¶ 115. In addition, BellSouth provides CLECs with unbundled loops in those instances where the customer was previously served by Integrated Digital Loop Carrier ("IDLC"). *See id.* ¶ 118; *Kansas/Oklahoma Order* ¶ 178. CLECs can access unbundled loops at any technically feasible point, and BellSouth provides access to all the features, functions, and capabilities of the loop. *See Milner Aff* ¶ 114; *New York Order* ¶ 275. CLECs seeking additional loop types can take advantage of BellSouth's BFR process. *See Milner Aff* ¶ 110; *Ruscilli/Cox Joint Aff* ¶¶ 12-13.

Comprehensive performance data unequivocally demonstrate that BellSouth's processes and procedures for the ordering, provisioning, and maintenance of unbundled loop facilities offer CLECs a meaningful opportunity to compete in the local service market. *See New York Order* ¶¶ 270, 283 (performance measurements showing provisioning intervals and success in meeting due dates are instructive in proving nondiscriminatory access); *Texas Order* ¶ 249; *Kansas/Oklahoma Order* ¶ 208 (the Commission continues to rely primarily upon missed installation appointments and average installation intervals).

In its *Second Louisiana Order*, the Commission suggested that it was unable to find that BellSouth complied with Checklist Item 4 because BellSouth's performance metrics were not disaggregated by loop type, and lacked sufficient underlying documentation. *See Second Louisiana Order* ¶¶ 192-198. BellSouth's SQM plans in Georgia and Louisiana fully address

Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 16 FCC Rcd 2101 (2001).

those issues. As BellSouth has explained, the SQM plans were developed through a collaborative process with significant CLEC participation, and they have been modified and approved by both the GPSC and the LPSC. As explained in the affidavits of Alphonso Varner, and further demonstrated below, those plans provide highly disaggregated data for different loop types – including data for analog loops (designed and non-designed, and with and without LNP), various kinds of digital loops, xDSL loops, and line-shared loops. BellSouth's performance in the pre-ordering, ordering, and provisioning of unbundled loops, as captured by these comprehensive measures, demonstrates that CLECs have nondiscriminatory access to local loop transmission. *See generally Varner Ga Aff ¶¶ 189-244; Varner La Aff ¶¶ 203-257*. The Varner affidavits and their attachments additionally contain a detailed explanation of how these PSC-approved measurements are derived, and provide sufficient documentation so that their results can be (and have been) subject to audit by independent parties. *See Second Louisiana Order ¶ 198* ("in future applications, we expect BellSouth to explain how it derives and calculates its data and why its performance data demonstrates that competitive LECs have nondiscriminatory access to unbundled loops").

a. Hot Cuts

BellSouth provides nondiscriminatory access to hot cut loops in accordance with the Commission's standards. Specifically, BellSouth performs coordinated conversions in a timely manner, with minimal service disruption, and with few troubles following installation. *See LPSC Staff Final Recommendation at 77*.

BellSouth has developed three different hot cut processes, allowing CLECs to select the particular method that best fits their business plan and their customers' needs. Two of these processes – the time-specific cutover and the non-time-specific cutover – involve order

coordination between BellSouth and the requesting CLEC, while the third process – the date-specific cutover – does not involve any such coordination. *See Milner Aff.* ¶ 142. In the third method, the CLEC simply specifies a date for the desired conversion to occur. *Id.* ¶ 144.

The time-specific and non-time-specific processes are largely analogous: the difference is when the specific time for the cutover is determined. When a CLEC places an order for a time-specific conversion, the CLEC selects up-front the date and time for the desired conversion. *Id.* ¶ 142. For a non-time specific conversion, the CLEC selects only the cutover *date* at the time it places the original order. Then, within 24 to 48 hours of that cutover date, BellSouth and the CLEC will jointly select a mutually acceptable time for the coordinated conversion to occur. *Id.* ¶ 143.

As the Commission has noted, “[t]he ability of a BOC to provision working, trouble-free loops through hot cuts is critically important in light of the substantial risk that a defective hot cut will result in competing carrier customers experiencing service outages for more than a brief period.” *Texas Order* ¶ 256. BellSouth’s performance data for both Georgia and Louisiana demonstrate that it is doing exceptionally well in performing this “critically important” task.

Georgia. Between May and July 2001, BellSouth met every benchmark in Georgia for each of the hot cut sub-metrics. *See Varner Ga. Aff.* ¶ 238. BellSouth provisioned 6,615 of the 6,673 scheduled conversions (or greater than 99%) on time during the three-month period of May, June, and July 2001. *Id.* ¶ 239. The average interval for each cutover was a mere 2.53 minutes. *Id.* In July, BellSouth completed 97.92% of time-specific and 99.39% of non-time-specific SL1 loop conversions in fewer than 15 minutes; during that same month, it completed 98.94% of time-specific and 100% of non-time-specific SL2 loop conversions in fewer than 15 minutes. *See BellSouth Monthly State Summary – Georgia, July 2001 (B 2.14) (Varner Affs*

Exh. PM-4). BellSouth also performed these cutovers with a minimum of service disruption, causing only 15 outages while performing 6,673 conversions. *Varner Ga Aff.* ¶ 243. See also *Pennsylvania Order* ¶ 79 n.275 (“We note that individual states and BOCs may define performance measures in different ways. We look to those measurements however, that provide data most similar to data we have relied on in past orders.”). This outage rate of only 0.22% easily satisfies the Commission’s 5% standard. In addition, CLECs reported trouble on only 108 of 4,956 (2.17%) converted circuits (B.2.17), well within the benchmark established by the Georgia PSC and in line with this Commission’s standards. See *Varner Ga Aff.* ¶ 244.

Louisiana. BellSouth’s Louisiana performance is, if anything, even better than its Georgia performance. From May through July, BellSouth completed all 1,391 scheduled conversions within the 15-minute benchmark. See *Varner La Aff.* ¶ 252. The average completion interval was 2.76 minutes. See *id.* BellSouth performed more than 99.7% of coordinated conversions without causing an outage, again far superior to the applicable 95% standard. See *id.* ¶ 256. During that time period, CLECs reported trouble on only 17 of 1,310 (1.3%) provisioned circuits, well within the Commission’s 2% standard. See ¶ 257.

In light of this evidence, there can be no serious dispute that BellSouth satisfies this Commission’s standards for hot cuts in both Georgia and Louisiana. See *Kansas/Oklahoma Order* ¶ 201; *Massachusetts Order* ¶ 110 (BOC demonstrates compliance by providing hot cuts in a timely manner; at an acceptable level of quality; with minimal service disruptions; and with a minimum of troubles following installation).

b. Stand-Alone Loop Performance

In reviewing a BOC’s performance for stand-alone loop provisioning, the Commission focuses upon the following categories: (i) average completion interval (for BellSouth, this is tracked through an analogous metric known as order completion interval or “OCI”); (ii) missed

installation appointments; (iii) trouble reports after provisioning; and (iv) the timeliness and quality of maintenance and repair measures. *Kansas/Oklahoma Order* ¶¶ 208-212. Across loop types, and in both Georgia and Louisiana, BellSouth's performance has been excellent.

Georgia. BellSouth provisions quality unbundled voice grade loops in a timely manner, guaranteeing Georgia CLECs a meaningful opportunity to compete. BellSouth consistently meets a greater percentage of installation appointments for Georgia CLECs than for its own retail customers, and provisions voice grade loops for CLECs in substantially the same time as it does for its own retail customers. Between May and July, for example, BellSouth met or exceeded the applicable benchmark for 12 of the 13 installation appointment sub-metrics for analog loops. *Varner Ga Aff.* ¶ 223.⁸² Likewise, BellSouth's reported OCI performance data for analog loops indicate that it met or exceeded the applicable benchmark for each of the relevant sub-metrics during that same time period. *See Varner Ga Aff.* ¶ 220.

The quality of BellSouth's loop provisioning in Georgia, as well as the timeliness and quality of its maintenance and repair services, has also been exemplary. Between May and July, BellSouth met or exceeded the parity standard for all sub-metrics that capture provisioning troubles for analog loops. *See Varner Ga Aff.* ¶ 225. During that same time period, BellSouth also met a greater percentage of maintenance and repair appointments for CLEC customers than it did for its own retail customers (B.3.1.8, B.3.1.9), and completed maintenance and repair work in substantially less time for CLEC loops than for BellSouth's own retail customers (B.3.3.8, B.3.3.9). *See id.* ¶¶ 228-230. Finally, BellSouth provides high-quality maintenance and repair

⁸² The only sub-metric that BellSouth missed – B.2.18.9.2.1 (June 2001) (2-wire analog loop non-design/>=10 circuits/dispatch) – involved only two orders.

services, such that CLEC customers suffered a lower percentage of repeat troubles than did BellSouth retail customers (B.3.4.8, B.3.4.9). *See id* ¶ 230.

Louisiana. BellSouth also provisions unbundled voice grade loops in Louisiana in a manner that provides Louisiana CLECs a meaningful opportunity to compete. BellSouth consistently meets more installation appointments for Louisiana CLECs than for its own retail customers, exceeding parity for all seven sub-metrics with reported data (B.2.18.8, B.2.18.9) between May and July. *See Varner La Aff.* ¶ 237. While the order completion intervals have been substantially the same for CLEC and BellSouth retail customers (B.2.1.8), the limited CLEC order volume has accentuated any minor deviations that have occurred. *See BellSouth Monthly State Summaries – Louisiana, May-July 2001 (Varner Affs Exhs. PM-14 to PM-16).* This minimal deviation has not affected CLECs' opportunity to compete in the Louisiana local service market.

As in Georgia, the quality of BellSouth's provisioning in Louisiana has also been superb. Between May and July, BellSouth missed none of the nine sub-metrics that capture provisioning troubles for analog loops. *See Varner La Aff.* ¶ 238 (B.2.19.8, B.2.19.9). Likewise, as captured by the "customer trouble report rate" metric, Louisiana CLEC customers consistently experienced a smaller percentage of troubles than did BellSouth's retail customers. *See id* ¶ 243 (B.3.2.8, B.3.2.9). BellSouth has also provided Louisiana CLECs maintenance and repair services that are on par with, if not superior to, that provided to BellSouth's retail customers. Between May and July, BellSouth missed a smaller percentage of installation appointments for CLECs than for its retail customers (B.3.1.8, B.3.1.9), and BellSouth completed maintenance and repair work in substantially less time for CLECs than for its own retail customers (B.3.3.8). *See id* ¶¶ 241, 243. In July alone, BellSouth completed maintenance work for CLEC more than

three times faster than for its retail customers. See BellSouth Monthly State Summary – Louisiana, July 2001 (B.3.3.8) (*Varner Affs.* Exh. PM-16). CLECs have also received superior quality maintenance and repair services, as BellSouth met or exceeded parity for all six of the repeat trouble report sub-metrics (B.3.4.8). *Varner La Aff* ¶ 243.

c. High-Speed Digital Loops

Georgia. BellSouth has additionally provisioned high-quality digital loops to Georgia CLECs at speeds of DS1 and greater. From May through July, BellSouth has missed a smaller percentage of installation appointments for CLECs in provisioning such high-speed digital loops than it has for its own retail customers (B.2.18.19). See *Varner Ga Aff* ¶ 234. Likewise, the average order completion interval for digital loops of DS1 capacity or greater has consistently been shorter for CLECs than it has been for BellSouth retail customers (B.2.1.19). See *id* ¶ 232. BellSouth has also instituted a new turn-up process to address concerns with some provisioning troubles. See *id* ¶ 236.

Louisiana. BellSouth additionally provides nondiscriminatory access to digital loops of DS1 capacity or greater in Louisiana. BellSouth's provisioning performance has been excellent. During each of the past three months, BellSouth has missed a smaller percentage of installation appointments when provisioning high-speed digital loops for CLECs than it has when provisioning such loops to its retail customers. See *Varner La Aff* ¶ 247 (B.2.18.19). Likewise, the average order completion interval for digital loops of DS1 capacity or greater has consistently been shorter for Louisiana CLECs than it has been for BellSouth retail customers. See *id* ¶ 245 (B.2.1.19)

2. Access to Subloop Elements

In addition to the unbundled loops themselves, BellSouth offers CLECs nondiscriminatory access to subloop elements. *See Milner Aff* ¶ 124. The subloop UNE has been defined as a portion of the local loop that can be accessed at accessible points on the loop. This includes any technically feasible point near the customer premises, such as the pole or pedestal, the network interface device ("NID"), or minimum point of entry to the customer's premises, the feeder distribution interface, the Main Distributing Frame, remote terminals and various other terminals. *See id* BellSouth offers the following subloop elements: loop concentration/multiplexing; loop feeder; loop distribution; intrabuilding network cable; and network terminating wire *See id*. Moreover, CLECs can request additional subloop elements via the bona fide request process. *See id*. As of July 31, 2001, BellSouth has provided CLECs over 600 unbundled subloop loop distribution elements region-wide. *See id* ¶ 125

3. Access to xDSL-capable Loops

BellSouth has developed and implemented nondiscriminatory processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services, providing Georgia CLECs a meaningful opportunity to compete in the advanced services market. Because the various flavors of xDSL have different technical prerequisites and disparate tolerance for disturbing devices, CLECs requested that BellSouth create xDSL loop offerings with distinct parameters. In response to these requests, BellSouth developed a variety of unbundled loop-types for CLECs to choose among. Because BellSouth signed interconnection agreements obligating it to continue provisioning these different loop types, multiple product offerings have been and remain available over time. The historical evolution of BellSouth's specific xDSL loop offerings – which currently include the ADSL-capable loop; HDSL-capable

loop; ISDN loop; Universal Digital Channel (“UDC”); Unbundled Copper Loop (“UCL”), Short and Long; and UCL-Nondesign (“UCL-ND”) – is recounted in the affidavit of Jerry Latham. *See generally Latham Aff.* ¶¶ 3-19 (App. A, Tab M). By July 31, 2001, BellSouth had provisioned 3,391 2-wire ADSL loops, 80 2-wire HDSL loops, 737 UCL (Long and Short) loops, and 3,091 UDC loops in Georgia, as well as 1,781 2-wire ADSL loops, 71 2-wire HDSL loops, 934 UCL (Long and Short) loops, and 752 UDC loops in Louisiana. *See Milner Aff.* ¶¶ 115, 138.

For pre-ordering of xDSL-capable loops, BellSouth offers CLECs nondiscriminatory access to the actual loop make-up information (“LMU”) contained in its records and databases. *See generally Stacy Aff.* ¶¶ 227-249. In compliance with the *UNE Remand Order*, BellSouth provides CLECs access to the exact same LMU available to and used by its retail personnel and in the same manner. *See id.* ¶¶ 227-278, 231-32.

LMU consists of the detailed information about the loop facilities serving a particular end-user address needed to determine the feasibility of providing a desired xDSL service over a loop. BellSouth’s LENS, TAG, and RoboTAG interfaces allow CLECs to obtain real-time electronic access to the LMU contained in BellSouth’s Loop Facilities Assignment & Control System (“LFACS”). *Id.* ¶ 228. Should LFACS lack the desired LMU, CLECs can request that BellSouth’s outside plant engineers perform a manual lookup in BellSouth’s Corporate Facilities Database. *Id.* ¶ 231-32; *Latham Aff.* ¶ 25; *see also Massachusetts Order* ¶ 68 (approving mix of manual and electronic processes); *Kansas/Oklahoma Order* ¶ 122; *Texas Order* ¶ 165. With

LMU in hand, CLECs can make their own determination as to the suitability of particular loops for the desired xDSL service. *See Latham Aff.* ¶ 23.⁸³

BellSouth also performs loop conditioning as requested, irrespective of whether BellSouth offers advanced services to the end-user customer on that loop. CLECs may select the precise conditioning (*i.e.*, loop modification) they desire on their loop and will only pay for the level of conditioning selected. *See Latham Aff.* ¶ 25; *Milner Aff.* ¶ 122.⁸⁴ Through BellSouth's Unbundled Loop Modification ("ULM") process, CLECs can request that BellSouth modify any existing loop to be compatible with the CLEC's particular hardware requirements. *See Latham Aff.* ¶ 25.

Under the direction of the Georgia and Louisiana PSCs, BellSouth has also developed comprehensive, disaggregated performance metrics that capture its performance in the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services. BellSouth's performance has been excellent across each of the five categories upon which this Commission has focused its attention: (i) order processing timeliness, (ii) average installation intervals; (iii) missed installation appointments; (iv) quality; and (v) quality and timeliness of maintenance and repair. *See Massachusetts Order* ¶ 130. Based on these performance data, the Commission should conclude that BellSouth "provisions xDSL-capable loops for competing carriers in substantially the same time and manner that it installs xDSL-capable loops for its own retail operations." *Kansas/Oklahoma Order* ¶ 185.

⁸³ BellSouth additionally offers CLECs access to its Loop Qualification System ("LQS"), a database designed for Network Service Providers ("NSPs") to enable them to inquire as to whether POTS lines will support BellSouth's wholesale ADSL service. CLECs have electronic access to the exact same LQS database, and in the same time and manner as NSPs. *See Stacy Aff.* ¶¶ 234-236.

⁸⁴ By order dated June 11, 2001, the GPSC set rates for loop conditioning at zero for a

Georgia. BellSouth provides nondiscriminatory access to xDSL-capable loops in Georgia, as demonstrated by its performance across all five of the relevant categories. BellSouth returns loop makeup information to CLECs in substantially the same time and manner as it is available to BellSouth's personnel. *See Stacy Aff.* ¶¶ 227-28, 231-32. Between May and July, BellSouth returned electronic loop makeup information within five minutes for 100% of such requests. *See Varner Ga Aff.* ¶ 165 (F.2.2 1). BellSouth additionally returned 98% (160 of 164) of manual requests within the established three-day benchmark during that same time frame. *See id* ¶ 164 (F.2.1.1).

BellSouth also provisions CLEC xDSL-capable loop orders well within the seven-day benchmark established by the GPSC. *See id* ¶ 193 (B.2.1.5, B.2.2). In absolute terms, the average order completion interval fell during each month from May through July. *See* BellSouth Monthly State Summaries – Georgia, May-July 2001 (*Varner Affs* Exhs. PM-2 to PM-4). Likewise, BellSouth met or exceeded the applicable parity standard for missed installation appointments in each of the past three months. *Varner Ga Aff* ¶ 197 (B 2 1.8.5).

BellSouth not only delivers xDSL-capable loops and related services in a timely manner but also provisions high-quality loops that present few technical problems. During the months of May to July 2001, only 5.1% of provisioned xDSL-capable loops experienced trouble within 30 days of their installation. *See* BellSouth Monthly State Summaries – Georgia, May-July 2001 (B.2.19.5) (*Varner Affs* Exhs. PM-2 to PM-4). During that same time period, more than 99% of CLEC xDSL-capable loops were trouble free. *See Varner Ga Aff.* ¶ 203. And while BellSouth just missed the parity measure for Customer Trouble Report Rate for xDSL (B.3.2.5), the

period of 18 months. *See Latham Aff* ¶ 25.

absolute percentage of troubles was so small as to be competitively insignificant. *See id*; *Pennsylvania Order* ¶ 77; *Massachusetts Order* ¶ 122.

When CLECs did experience trouble on xDSL-capable loops, BellSouth handled the troubles in substantially less time than it handled the troubles for its retail units. In July, for example, BellSouth completed maintenance work for CLEC xDSL-capable loops in an average of 5.38 hours for dispatch (B.3.3.5.1) and 3.08 hours for non-dispatch (B.3.3.5.2) repair service. By way of comparison, BellSouth completed the analog retail maintenance work in an average of 62.47 hours for dispatch and 18.49 hours for non-dispatch repair service. *See BellSouth Monthly State Summaries – Georgia, July (Varner Affs Exh. PM-4)*. BellSouth consistently made a greater percentage of repair appointments for CLECs than for its own retail customers (B.3.1 5), and provided superior quality repair service as CLECs suffered substantially fewer repeat troubles (B.3.4.5). *See Varner Ga Aff* ¶¶ 201, 206.

Louisiana. BellSouth also provides nondiscriminatory access to xDSL-capable loops in Louisiana. As in Georgia, BellSouth returns loop makeup information to Louisiana CLECs in substantially the same time and manner as that information is available to BellSouth's own personnel. Between May and July 2001, BellSouth returned electronic loop makeup information within five minutes for 100% of such requests. *See Varner La Aff* ¶ 179 (F.2.2.1). There was only one manual request for loop makeup information submitted between May and July. *See id* ¶ 178.

BellSouth also provisions high-quality xDSL-capable loops to Louisiana CLECs in a timely manner. During each of the past three months, BellSouth satisfied CLEC xDSL-capable loop orders well within the seven-day benchmark established by the LPSC. *See Varner La. Aff* ¶ 207 (B 2.1.5, B 2.2). Likewise, BellSouth met or exceeded the applicable parity standard for

missed installation appointments in each of the three months. *Id.* ¶ 211 (B.2.18.5). BellSouth xDSL-capable loops faced few technical problems once provisioned, as BellSouth met or exceeded the retail analog for troubles within 30 days of installation during each of the past three months. *Id.* ¶ 212 (B.2.19.5). During that same time period, more than 99% of CLEC xDSL-capable loops were trouble free. *See id.* ¶ 217. When CLECs did experience trouble on xDSL-capable loops, BellSouth provided timely and high-quality repair service. BellSouth missed fewer CLEC repair appointments (B.3.1.5), and it handled CLEC reported troubles in substantially less time than it handled the troubles for its retail analog units (B.3.3.5). *See id.* ¶¶ 215, 219. In light of this comprehensive evidence, there can be no doubt but that Louisiana CLECs have been provided a meaningful opportunity to compete in the advanced services market.

4. ISDN-BRI Loop Provisioning

BellSouth's performance in provisioning ISDN-BRI loops has also been excellent across each of the categories upon which this Commission has directed its attention. In both Georgia and Louisiana, BellSouth has met or exceeded the parity standard for ISDN-BRI loops for average order completion interval (B.2.1.6.3) during each of the past three months. *See Varner Ga. Aff.* ¶ 210; *Varner La. Aff.* ¶ 224. Likewise, BellSouth has consistently met a greater percentage of ISDN-BRI installation appointments for CLECs than it has for its own customers (B.2.18.6.1). *See Varner Ga. Aff.* ¶ 212; *Varner La. Aff.* ¶ 226. The customer trouble report rate has been significantly lower for Georgia CLECs than for BellSouth during each of the past three months (B.3.2.6), *see Varner Ga. Aff.* ¶ 215, and BellSouth has just missed the parity standard for two sub-metrics in Louisiana, *see Varner La. Aff.* ¶ 229. In each instance, however, more than 98% of CLEC ISDN-BRI loops were trouble free. *See id.* Moreover, when CLECs have

experienced troubles, BellSouth has provided timely and high-quality maintenance and repair services. In both Georgia and Louisiana, BellSouth has met or exceeded the parity standard for missed repair appointments (B.3.1.6), average maintenance duration (B.3.3.6), and percent repeat reports within thirty days (B.3.4.6) for every available sub-metric. *See Varner Ga. Aff.* ¶¶ 214, 216, 217; *Varner La. Aff.* ¶¶ 228, 230, 231.

5. Line Sharing

BellSouth has implemented line sharing in full compliance with the Commission's requirements, allowing CLECs to offer high-speed data service to BellSouth voice customers. Like SWBT, BellSouth developed its line-sharing product in a collaborative effort with CLECs and is continuing to work cooperatively with the CLECs on an ongoing basis to resolve issues as they arise. *See Williams Aff.* ¶ 7 (App. A, Tab W); *see also LPSC Staff Final Recommendation* at 84. BellSouth invited all interested CLECs to collaborative meetings beginning in January 2000, and at least 11 CLECs participated in these meetings. The participants agreed to form several working collaborative teams to develop processes and procedures for central-office-based line sharing, which were then implemented, tested, and improved. As a result of these efforts, BellSouth was able to implement commercial line sharing by this Commission's June 6, 2000 deadline. As of August 31, 2001, BellSouth had provisioned 824 line-sharing arrangements in Georgia, 418 line-sharing arrangements in Louisiana, and 3,856 such arrangements region-wide. *See Milner Aff.* ¶ 134.

BellSouth provides line sharing in accordance with the obligations set forth in the Commission's *Line Sharing Order* and *Line Sharing Reconsideration Order*. Specifically, line sharing is available to a single requesting carrier, on loops that carry BellSouth's plain old telephone service ("POTS"), so long as the xDSL technology deployed by the requesting carrier

does not interfere with the analog voice-band transmissions. *See Williams Aff* ¶¶ 5-6. BellSouth allows line-sharing CLECs to deploy any version of xDSL that is presumed acceptable for shared-line deployment in accordance with Commission rules and will not significantly degrade analog voice service. *Id.* At the request of the data CLECs, BellSouth provides line splitters in both Georgia and Louisiana. *Id.* ¶ 18.

The pre-ordering, ordering, provisioning, and maintenance and repair processes for the line-sharing product are very similar to the processes for xDSL-capable loops. *Id.* ¶¶ 21-28. For loop makeup information, the process is the same whether the CLEC wishes to obtain an xDSL-capable loop, or the high-frequency portion of the loop. *Id.* ¶ 21.

BellSouth provisions line sharing in a timely, accurate, and nondiscriminatory manner. *See Massachusetts Order* ¶ 165 (“a successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates and repeat trouble report rates”).

Georgia. In Georgia, BellSouth has completed orders for line sharing arrangements in substantially the same time as for the retail analog. BellSouth has met or exceeded the parity standard for five of six relevant OCI sub-metrics over the past three months (B.2.1.7). *Varner Ga Aff.* ¶ 195. BellSouth just missed the sixth sub-metric, and the minimal disparity is largely explained by the limited sample size. *See id.* BellSouth also has consistently met or exceeded the parity standard for missed installation appointments during each of the past three months, *see id.* ¶ 197, and CLECs have suffered a smaller percentage of provisioning troubles within 30 days, *see id.* ¶ 199. BellSouth has met substantially the same percentage of repair appointments for CLECs as for its retail customers. *See id.* ¶ 202. Because so few CLECs’ line-sharing

arrangements have required repair work, the limited sample size results in figures that understate BellSouth's record of high-quality maintenance service. *See id.* ¶ 207.

Louisiana. BellSouth also provides nondiscriminatory access to line-shared loops in Louisiana. BellSouth provisions line sharing arrangements in substantially the same time as it does for the retail analog, and BellSouth misses a smaller percentage of CLEC installation appointments. *See Varner La. Aff.* ¶¶ 209, 211. Likewise, BellSouth provisions high-quality loops, meeting the parity standard for three of four sub-metrics for provisioning troubles. *See id.* ¶ 213. In those instances where BellSouth has missed the parity standard, the limited sample size is largely responsible for skewing the record of high quality provisioning and maintenance services that BellSouth has demonstrated across loop types.

6. Line Splitting

BellSouth facilitates CLEC efforts to engage in line splitting in full compliance with the Commission's instructions. *Williams Aff.* ¶ 35. Specifically, BellSouth facilitates line splitting by cross-connecting an unbundled loop to a CLEC's collocation space. *Id.* ¶ 39. Once the CLEC has separated the voice from the data service, and sent the latter onto the packet switched network, BellSouth will cross-connect the voice signal back to the BellSouth circuit switch. In other words, BellSouth offers the same arrangement to CLECs as that described by the Commission in the *Texas Order* and the *Line Sharing Reconsideration Order*. *See* Ga. SGAT § II.B.9.b; La. SGAT § II.A.9.b. BellSouth's current offerings meet all Commission requirements for line splitting. *Texas Order* ¶¶ 323-329.

E. Checklist Item 5: Unbundled Local Transport

In compliance with the Act, BellSouth provides "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." 47 U.S.C.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Joint Application by SBC Communications)	
Inc., Illinois Bell Telephone Company,)	WC Docket No. 03 - 167
Indiana Bell Telephone Company)	
Incorporated, the Ohio Bell Telephone)	
Company, Wisconsin Bell, Inc., and)	
Southwestern Bell Communications Services,)	
Inc. for Authorization To Provide In-Region,)	
InterLATA Services in Illinois, Indiana, Ohio,)	
and Wisconsin)	

MEMORANDUM OPINION AND ORDER

Adopted: October 14, 2003

Released: October 15, 2003

By the Commission: Commissioners Copps, Martin and Adelstein issuing separate statements

TABLE OF CONTENTS

	Para.
I. INTRODUCTION.....	1
II. BACKGROUND.....	4
A. COMPLIANCE WITH UNBUNDLING RULES.....	10
III. COMPLIANCE WITH SECTION 271(C)(1)(A).....	12
IV. PRIMARY ISSUES IN DISPUTE.....	18
A CHECKLIST ITEM 1 – INTERCONNECTION.....	20
B CHECKLIST ITEM 2—UNBUNDLED NETWORK ELEMENTS.....	34
1. Pricing of Unbundled Network Elements.....	34
2. Access to Operations Support Systems.....	76
C CHECKLIST ITEM 4 – UNBUNDLED LOCAL LOOPS.....	142
V. OTHER CHECKLIST ITEMS.....	151
A. CHECKLIST ITEM 7 – ACCESS TO 911/E911 AND OPERATOR SERVICES/DIRECTORY ASSISTANCE.....	151
1. Access to 911/E911.....	151
2. Access to Operator Services/Directory Assistance.....	156

B. CHECKLIST ITEM 10 – DATABASES AND SIGNALING.	157
C. CHECKLIST ITEM 13 – RECIPROCAL COMPENSATION.....	159
D. REMAINING CHECKLIST ITEMS (3, 5, 6, 8, 9, 11, 12, AND 14)	164
VI. SECTION 272 COMPLIANCE	165
VII. PUBLIC INTEREST ANALYSIS	166
A. PUBLIC INTEREST TEST	166
B. ASSURANCE OF FUTURE PERFORMANCE.....	168
VIII. SECTION 271(d)(6) ENFORCEMENT AUTHORITY	180
IX. CONCLUSION.....	183
X. ORDERING CLAUSES	184

APPENDIX A—LIST OF COMMENTERS

APPENDIX B—ILLINOIS PERFORMANCE DATA

APPENDIX C—INDIANA PERFORMANCE DATA

APPENDIX D—OHIO PERFORMANCE DATA

APPENDIX E—WISCONSIN PERFORMANCE DATA

APPENDIX F—STATUTORY REQUIREMENTS

I. INTRODUCTION

1. On July 17, 2003, SBC Communications Inc., and its subsidiaries, Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, the Ohio Bell Telephone Company, Wisconsin Bell, Inc., and Southwestern Bell Communications Services, Inc. (collectively, SBC or applicant) jointly filed this multi-state application pursuant to section 271 of the Communications Act of 1934, as amended,¹ for authority to provide in-region, interLATA services originating in the states of Illinois, Indiana, Ohio, and Wisconsin.² We grant SBC's application in this Order based on our conclusion that SBC has taken the statutorily required

¹ We refer to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and other statutes, as the Communications Act or the Act. See 47 U.S.C. §§ 151 *et seq.* We refer to the Telecommunications Act of 1996 as the 1996 Act. See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

² See *Application of SBC, Pursuant to Section 271 of the Telecommunications Act of 1996 for Authorization To Provide In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin*, WC Docket No. 03-167 (filed July 17, 2003) (SBC Application).

steps to open its local exchange markets in these states to competition.

2. We note that the outstanding work of the state commissions in conjunction with SBC's extensive efforts to open its local exchange markets has resulted in competitive entry in each of these states. As of May 2003, SBC estimates competitive local exchange carriers (LECs) were serving at least 2.3 million access lines in Illinois, or 29% of all access lines in Illinois;³ at least 393,000 access lines in Indiana, or 15% of all access lines in Indiana;⁴ at least 885,000 access lines in Ohio, or 20% of all access lines in Ohio;⁵ and at least 633,000 access lines in Wisconsin, or 25% of all access lines in Wisconsin.⁶ These figures include approximately 319,000 UNE loops and 779,000 UNE-platform lines in Illinois,⁷ 53,000 UNE loops and 157,000 UNE platform lines in Indiana,⁸ 125,000 UNE loops and 547,000 UNE-platform lines in Ohio,⁹ and 229,000 UNE loops and 146,000 UNE-platform lines in Wisconsin.¹⁰

3. We wish to acknowledge the Illinois Commerce Commission (Illinois Commission), the Indiana Utility Regulatory Commission (Indiana Commission), the Public Utility Commission of Ohio (Ohio Commission), and the Public Service Commission of Wisconsin (Wisconsin Commission) for their considerable effort and dedication in overseeing SBC's implementation of the requirements of section 271 of the Act. By diligently and actively conducting proceedings to set UNE prices, to implement performance measures, to develop Performance Remedy Plans (PRPs), and to evaluate SBC's compliance with section 271, these state commissions laid the necessary foundation for our review of this application.

II. BACKGROUND

4. In the 1996 amendments to the Communications Act, Congress required that the Bell Operating Companies (BOCs) demonstrate compliance with certain market-opening requirements contained in section 271 of the Act before providing in-region, interLATA long

³ SBC Application App A, Vol 9, Tab 24, Affidavit of Deborah O Heritage Regarding Illinois (SBC Heritage Illinois Aff) at para 4

⁴ SBC Application App A, Vol 9, Tab 25, Affidavit of Deborah O Heritage Regarding Indiana (SBC Heritage Indiana Aff) at para 4

⁵ SBC Application App A, Vol. 9, Tab 26, Affidavit of Deborah O Heritage Regarding Ohio (SBC Heritage Ohio Aff) at para 4

⁶ SBC Application App A, Vol 9, Tab 27, Affidavit of Deborah O. Heritage Regarding Wisconsin (SBC Heritage Wisconsin Aff) at para 4

⁷ SBC Heritage Illinois Aff at para 6

⁸ SBC Heritage Indiana Aff. at para 6

⁹ SBC Heritage Ohio Aff at para 6

¹⁰ SBC Heritage Wisconsin Aff at para 6

distance service.¹¹ Congress provided for Commission review of BOC applications to provide such service in consultation with the relevant state commissions and the U.S. Attorney General.¹² In our examination of this application, we rely heavily on the work completed by the state commissions. We summarize the individual state proceedings below.

5. *Illinois.* On October 24, 2001, the Illinois Commission issued an order initiating a proceeding to investigate the status of SBC's compliance with section 271 of the Act, to hold hearings, and to develop a comprehensive factual record for purposes of its anticipated consultation with this Commission.¹³ The Illinois Commission conducted a number of workshops open to all participants that identified and refined relevant issues including those related to Track A, the 14-point checklist, and the public interest.¹⁴ On May 13, 2003, the Illinois Commission issued a final order finding that SBC's application was in the public interest and that SBC met the 14-point checklist and the Track A requirements in Illinois.¹⁵

6. *Indiana.* On February 2, 2000, SBC formally requested that the Indiana Commission commence a process to review its application to provide long distance services in Indiana.¹⁶ SBC requested that the Indiana Commission review checklist compliance separate from overseeing the testing of the operational support system (OSS) and performance measures.

¹¹ See 47 U.S.C. § 271.

¹² 47 U.S.C. §§ 271(d)(2)(A), (B). The Commission has summarized the relevant statutory framework in prior orders. See, e.g., *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6241-42, paras. 7-10 (2001) (*SWBT Kansas/Oklahoma Order*), *aff'd in part, remanded in part sub nom. Sprint Communications Co. v. FCC*, 274 F.3d 549 (D.C. Cir. 2001) (*Sprint v. FCC*), *Application by SBC Communications Inc., Southwestern Bell Tel. Co. and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18359-61, paras. 8-11 (2000) (*SWBT Texas Order*).

¹³ *Illinois Commerce Commission On its Own Motion, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996*, ICC Docket No. 01-0662, Order Initiating Investigation (Illinois Commission October 24, 2001) (*Illinois Section 271 Proceeding Initiating Order*).

¹⁴ SBC Application at 3-6, SBC Application App. A, Vol. 11, Tab 29, Affidavit of Rhonda J. Johnson (SBC Johnson Aff.) at paras. 12-23. As we discuss below, we find that SBC has satisfied the requirements of Track A. See para. 13, *infra*.

¹⁵ *Illinois Commerce Commission On its Own Motion, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996*, ICC Docket No. 01-0662, Order on Investigation (Illinois Commission May 13, 2003) (*Illinois Section 271 Order*).

¹⁶ *Petition of Indiana Bell Telephone Company, Incorporated, D/B/A Ameritech Indiana or SBC Indiana Pursuant to I.C. 8-1-2-61 for a Three Phase Process for Commission Review of Various Submissions of SBC Indiana to Show Compliance with Section 271(c) of the Telecommunications Act of 1996*, Cause No. 41657, Petition (filed with Indiana Commission February 2, 2000) (*SBC Indiana Petition*).

On March 19, 2001, the Indiana Commission issued an order authorizing the OSS test.¹⁷ The Indiana Commission ensured the process was open to participation by all interested parties and held numerous and lengthy workshops between SBC and the competitive LECs to discuss, among other things, OSS enhancements, performance measures, and checklist items.¹⁸ On July 2, 2003, the Indiana Commission issued an order indicating that it would support SBC's application, subject to the filing of compliance plans developed in Michigan and subsequently filed in Illinois.¹⁹ On August 6, 2003, the Indiana Commission filed comments in this proceeding, which concluded that SBC is largely in compliance with the section 271 requirements. The Indiana Commission did, however, defer to this Commission the ultimate determination of whether local markets have been fully and irreversibly open to competition, and whether SBC has demonstrated sufficient accuracy of its systems data and wholesale billing reliability.²⁰

7. *Ohio* On June 1, 2000, the Ohio Commission initiated a proceeding to review SBC's section 271 application for Ohio.²¹ The Ohio Commission held numerous and detailed collaborative workshops between SBC and the competitive LECs focused on OSS enhancements, development and supervision of OSS tests, performance measurements, and checklist items including UNE combinations.²² On June 26, 2003, the Ohio Commission issued an order concluding that SBC has opened the local markets in Ohio to competition and has satisfied all the requirements for section 271 approval.²³

8. *Wisconsin* On September 14, 2001, the Wisconsin Commission issued a notice

¹⁷ *Petition of Indiana Bell Telephone Company, Incorporated, D/B/A Ameritech Indiana or SBC Indiana Pursuant to I C 8-1-2-61 for a Three Phase Process for Commission Review of Various Submissions of SBC Indiana to Show Compliance with Section 271(c) of the Telecommunications Act of 1996*, Cause No. 41657, Order (Indiana Commission March 19, 2001) (*Indiana OSS Order*)

¹⁸ SBC Application at 6-7, SBC Application App. A, Vol. 1, Tab 8, Affidavit of Jolynn B. Butler (SBC Butler Aff.) at paras. 9-24

¹⁹ *Petition of Indiana Bell Telephone Company, Incorporated, D/B/A Ameritech Indiana or SBC Indiana Pursuant to I C 8-1-2-61 for a Three Phase Process for Commission Review of Various Submissions of SBC Indiana to Show Compliance with Section 271(c) of the Telecommunications Act of 1996*, Cause No. 41657, Compliance Order (Indiana Commission July 2, 2003) (*Indiana Compliance Order*)

²⁰ Indiana Commission Comments at 1-2

²¹ *Investigation into SBC Ohio's Entry into In-Region InterLATA Service Under Section 271 of the Telecommunication Act of 1996*, Case No. 00-942-TP-COL, Order (Ohio Commission June 1, 2000)

²² SBC Application at 7-11, SBC Application App. A, Vol. 11, Tab 32, Affidavit of Daniel R. McKenzie (SBC McKenzie Aff.) at paras. 9-20

²³ *Investigation into SBC Ohio's Entry into In-Region InterLATA Service Under Section 271 of the Telecommunication Act of 1996*, Case No. 00-942-TP-COL, Order (Ohio Commission June 26, 2003) (*Ohio Commission 271 Order*)

opening the section 271 docket in Wisconsin.²⁴ Interested parties conducted technical hearings and participated in a number of collaborative workshops to resolve some of the outstanding issues.²⁵ The Wisconsin Commission issued two separate orders. On July 1, 2003, it issued a "Phase I" order concluding that SBC had satisfied Track A and each of the fourteen checklist items in Wisconsin subject to its determinations in its "Phase II" proceeding.²⁶ On July 7, 2003, it issued a "Phase II" order concluding that SBC provides nondiscriminatory access to OSS in Wisconsin and that it provides unbundled network elements (UNEs) at TELRIC-based rates in Wisconsin.²⁷

9. On July 17, 2003, SBC filed the instant application. Comments were filed with the Commission on August 6, 2003 and reply comments were filed on August 29, 2003. The Department of Justice filed an evaluation on August 26, 2003, expressing concerns about SBC's wholesale billing, manual handling of orders, line splitting, pricing, and data reliability.²⁸ According to the Department of Justice, billing accuracy problems continue to persist that were noted in the Michigan proceeding.²⁹ Regarding manual handling of orders, the Department of Justice notes that, because of software problems, competitive LECs often must rely on manual processes instead of SBC's normal mechanized interfaces to handle orders. It questions the adequacy of SBC's pre-release testing and defect resolution processes.³⁰ Moreover, the Department of Justice still questions, as it did in the Michigan proceeding, whether SBC's current processes provide nondiscriminatory access to line splitting and UNE-platform services.³¹ The Department of Justice also questions whether SBC may be implementing state commission-ordered TELRIC rates in a way that violates our rules and the Act.³² Finally, the Department of Justice notes that "the Commission should ensure that the current performance metrics are reliable, and that a stable and reliable reporting system will be in place to help ensure

²⁴ *Petition of Wisconsin Bell, Inc. for a Section 271 Checklist Proceeding*, 6720-TI-170, Notice of Proceeding and Investigation and Assessment of Costs and Technical Hearing (Wisconsin Commission September 14, 2001)

²⁵ SBC Application at 11-12, SBC Application App A, Vol 11, Tab 40, Affidavit of Scott T Vandersanden (SBC Vandersanden Aff) at paras 13-23

²⁶ *Petition of Wisconsin Bell, Inc. for a Section 271 Checklist Proceeding*, 6720-TI-170, Determination Phase I (Wisconsin Commission July 1, 2003) (*Wisconsin Commission Phase I Order*)

²⁷ *Petition of Wisconsin Bell, Inc. for a Section 271 Checklist Proceeding*, 6720-TI-170, Determination Phase II (Wisconsin Commission July 7, 2003) (*Wisconsin Commission Phase II Order*)

²⁸ Department of Justice Evaluation at 2

²⁹ *Id* at 9

³⁰ *Id* at 15-16

³¹ *Id* at 16

³² *Id* at 17

that these local markets remain open after SBC's application is ultimately granted."³³ As a result, the Department of Justice states that it "is not in a position to support this application based on the current record," but states that the Commission may "be able to satisfy itself regarding these [issues] prior to the conclusion of its review."³⁴

A. Compliance With Unbundling Rules

10. One part of the required showing, as explained in more detail below, is that the applicant satisfies the Commission's rules governing UNEs.³⁵ In the *UNE Remand* and *Line Sharing Orders*, the Commission established a list of UNEs that incumbent LECs were obliged to provide: (1) local loops and subloops; (2) network interface devices; (3) switching capability; (4) interoffice transmission facilities; (5) signaling networks and call-related databases; (6) OSS; and (7) the high frequency portion of the loop.³⁶ The D.C. Circuit vacated these orders and instructed the Commission to reevaluate the network elements subject to the unbundling requirement.³⁷ The court's mandate was stayed first until January 3, 2003, and then until February 20, 2003. On February 20, 2003, we adopted new unbundling rules as part of our *Triennial Review* proceeding, which became effective on October 2, 2003.³⁸

11. Although the former unbundling rules were not in force at the time SBC filed its application in this proceeding, SBC states that it continues to provide nondiscriminatory access

³³ *Id.* at 19

³⁴ *Id.* at 20

³⁵ In order to comply with the requirements of checklist item 2, a BOC must show that it is offering "[n]ondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3)" 47 U.S.C. § 271(c)(2)(B)(ii)

³⁶ See 47 C.F.R. § 51.319, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (*UNE Remand Order*), *Deployment of Wireline Services Offering Advanced Telecommunications Capability, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 98-147, 96-98, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*).

³⁷ See *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002), cert. denied sub nom. *WorldCom, Inc. v. United States Telecom Ass'n*, 123 S.Ct. 1571 (2003 Mem.)

³⁸ See *FCC Adopts New Rules For Network Unbundling Obligations Of Incumbent Local Phone Carriers*, News Release (rel. Feb. 20, 2003) (announcing adoption of an Order on Remand and Further Notice of Proposed Rulemaking in CC Docket No. 01-338, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*) (*Triennial Review News Release*), *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003) (*Triennial Review Order*); *Effective Date for New Rules and Comment and Reply Comment Dates*, Public Notice, DA 03-2778 (WCB rel. Sept. 2, 2003) (*Triennial Review Public Notice*)

to these network elements.³⁹ As the Commission found in the *Bell Atlantic New York Order*, we believe that using the network elements identified in the former unbundling rules as a standard in evaluating SBC's application, filed during the interim period between the time the rules were vacated by the D.C. Circuit and the effective date of the new rules, is a reasonable way to ensure that the application complies with the checklist requirements.⁴⁰ We find it significant that no commenter disputes that SBC should be required to demonstrate that it provides these network elements in a nondiscriminatory way. Accordingly, for the purposes of this application, we will evaluate whether SBC provides nondiscriminatory access to the network elements identified under the former unbundling rules. We emphasize that, on an ongoing basis, SBC must comply with all of the Commission's rules implementing the requirements of sections 251 and 252 upon the dates specified by those rules.⁴¹

III. COMPLIANCE WITH SECTION 271(C)(1)(A)

12 In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).⁴² To meet the requirements of Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers."⁴³ The Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier."⁴⁴ The Commission has further held that a BOC must show that at least one "competing

³⁹ See SBC Application at 39, 42-43, 92-93, 95. Consistent with the *Bell Atlantic New York Order*, we will not require SBC to demonstrate compliance with rules that were not in effect at the time the application was filed. See *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3967, para. 31 (1999) (*Bell Atlantic New York Order*), *aff'd*, *AT&T Corp v. FCC*, 220 F.3d 607 (D.C. Cir. 2000).

⁴⁰ *Bell Atlantic New York Order*, 15 FCC Rcd at 3966-67, para. 30. A similar procedural situation was presented in the *Bell Atlantic New York* proceeding. Bell Atlantic filed its application for section 271 authorization in New York after the unbundling rules had been vacated but before the *UNE Remand Order* had taken effect and, thus, at a time when no binding unbundling rules were in effect. Bell Atlantic suggested, and the Commission agreed, that it would be reasonable for the Commission to use the original seven network elements identified in the former unbundling rules in evaluating compliance with checklist item 2 for the application. See *id.* at 3966-67, paras. 29-31.

⁴¹ See *SWBT Texas Order*, 15 FCC Rcd at 18368, para. 29, *Bell Atlantic New York Order*, 15 FCC Rcd at 3967, para. 31.

⁴² 47 U.S.C. § 271(d)(3)(A).

⁴³ 47 U.S.C. § 271(c)(1)(A).

⁴⁴ *Id.*

LEC's request⁵⁷⁸ SBC has also demonstrated that it allows competitors to combine their own UNE combinations.⁵⁷⁹ Finally, we note that no commenter has expressed any concern about SBC's provision of UNE combinations.

C. Checklist item 4 – Unbundled Local Loops

142. Section 271(c)(2)(B) of the Act requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”⁵⁸⁰ Based on the evidence in the record, we conclude, consistent with the state commissions, that SBC provides unbundled local loops in accordance with the requirements of section 271 and our rules.⁵⁸¹ Our conclusion is based on our review of SBC’s performance for all loop types, which include voice-grade loops, xDSL-capable loops, digital loops, and high-capacity loops, as well as our review of SBC’s processes for hot cut provisioning, and line sharing and line splitting. SBC has provisioned thousands of stand-alone loop UNEs in the four application states; 319,000 in Illinois; 53,000 in Indiana; 125,470 in Ohio; and 229,539 in Wisconsin.⁵⁸²

143. *xDSL-Capable Loops.* We find that SBC provides xDSL-capable loops to competitors in a nondiscriminatory manner.⁵⁸³ Although SBC missed one installation interval

⁵⁷⁸ SBC Alexander Illinois Aff at paras 82-83, SBC Alexander Indiana Aff at paras 82-83, SBC Alexander Ohio Aff at paras 82-83; SBC Alexander Wisconsin Aff at paras 82-84.

⁵⁷⁹ SBC Application at 42 (citing, as an example, SBC Alexander Illinois Aff at paras 39-53, 80 and SBC Application App A, Vol 3, Tab 13, Affidavit of William C Deere Regarding Illinois (SBC Deere Illinois Aff) at para 9)

⁵⁸⁰ 47 U.S.C. § 271(c)(2)(B)(iv), *see also* Appendix F (setting forth the requirements under checklist item 4)

⁵⁸¹ Illinois Commission Comments at 96, Ohio Commission Comments at 186, Wisconsin Commission Comments at 1. We note that the Indiana Commission deferred the determination of whether SBC is in compliance with checklist item 4 to the Commission. Indiana Commission Comments at 17-18. As we discuss below, we find that SBC has demonstrated compliance in all four states, including Indiana.

⁵⁸² SBC Application at 91, SBC Heritage Illinois Aff. at Appendix A, SBC Heritage Indiana Aff at Appendix A, SBC Heritage Ohio Aff at Appendix E, SBC Heritage Wisconsin Aff at Appendix E.

⁵⁸³ SBC generally met the relevant party or benchmark standard regarding provisioning and maintenance and repair of xDSL-capable loops. *See, e.g.*, PM 58-04 (Percent Ameritech-Caused Missed Due Dates, DSL; No Line Sharing), PM 59-04 (Percent Trouble Reports Within 30 Days of Installation, DSL; No Line Sharing), PM 65-04 (Trouble Report Rate, DSL, No Line Sharing), PM 67-04 (Mean Time to Restore, Dispatch, DSL, No Line Sharing), PM 67-19 (Mean Time to Restore, No Dispatch, DSL, No Line Sharing), PM 69-04 (Percent Repeat Trouble Reports, DSL; No Line Sharing), *see also* Appendices B-E. We note that SBC missed the benchmark PM 67-04 (Mean Time to Restore, Dispatch, DSL, No Line Sharing) in Wisconsin by 1.28 hours in March 2003 and 0.45 hours in July 2003. SBC also missed the benchmark PM 69-04 (Percent Repeat Trouble Reports, DSL, No Line Sharing) in Indiana by 2.29% in March 2003 and 1.33% in June 2003. Since the misses to both metrics were by small margins, we do not find the misses to be competitively significant.

metric for DSL loops for several months in Wisconsin,⁵⁸⁴ as the Commission has noted in prior section 271 orders, we accord the installation interval metrics little weight because results can be affected by a variety of factors outside the BOC's control that are unrelated to provisioning timeliness.⁵⁸⁵ Instead, we conclude that the missed due date metric is a more reliable indicator of provisioning timeliness. In this regard, SBC met the applicable standard for missed due dates for all months under review.⁵⁸⁶ In addition, MCI complains that SBC is unable to include a DSL line in a "hunt group" that also contains non-DSL lines. However, we note that MCI raised this issue in the *SBC Michigan II* proceeding, and as we determined there, we find that MCI's complaints do not warrant a finding of checklist noncompliance.⁵⁸⁷

⁵⁸⁴ SBC missed PM 55-12 (Average Installation Interval, DSL Loops Requiring No Conditioning, Line Sharing) in Wisconsin in March through May 2003 by an average of 0.47 days. However, since SBC has shown improvement by achieving parity for PM 55-12 in Wisconsin for the months of June and July 2003, we do not find that the earlier misses indicate a systemic problem with SBC's performance. Appendices B-E, SBC Ehr Reply Aff., Attach. C at 18. In June 2003, the average installation interval was 2.97 days for SBC versus 2.94 days for competitive LECs and, in July 2003, SBC's average was 2.96 days versus 2.89 days for competitive LECs. Appendices B-E. Therefore, we reject ACN Group's arguments that SBC's installation intervals for stand-alone DSL loops were much longer than those for its retail affiliate. ACN Group Comments at 37.

⁵⁸⁵ See, e.g., *SBC Michigan II Order* at para. 128 n. 429, *Bell Atlantic New York Order*, 15 FCC Rcd at 4061, paras. 202-10 (listing factors beyond the BOC's control that affect the average installation interval metric: "(1) competitive LECs are choosing installation dates beyond the first installation date made available by Bell Atlantic's systems (the 'W-coding' problem), (2) for non-dispatch orders, competitive LECs are ordering a relatively larger share of services and UNEs that have long standard intervals (the 'order mix' problem), and (3) for dispatch orders, competitive LECs are ordering a relatively larger share of services in geographic areas that are served by busier garages and, as a result, reflect later available due dates (the 'geographic mix' problem)"; see also *Qwest Nine State Order*, 17 FCC Rcd at 26402, para. 163, *Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Authorization To Provide In-Region, InterLATA Services in Florida and Tennessee*, WC Docket No. 02-307, Memorandum Opinion and Order, 17 FCC Rcd 25828, 25896-97, para. 136 and n. 463 (2002) (*BellSouth Florida/Tennessee Order*)).

⁵⁸⁶ PM 58-04 (Percent Ameritech-Caused Missed Due Dates, DSL, No Line Sharing). Although SBC missed the benchmark PM IN 1-01 (Percent Loop Acceptance Test (LAT) Completed on or Prior to the Completion Date of the Order – DSL Loops without line sharing) in Wisconsin by 3.3% in March, 27.5% in April, and 10% in June, the volume of orders was low (e.g., only 16 competitive LEC orders in April). Appendices B-E, SBC Ehr Reply Aff., Attach. C at 19. Since a small number of missed due dates led to the missed metric, we do not find the misses of PM IN 1-01 to be competitively significant.

⁵⁸⁷ See *SBC Michigan II Order* at para. 131. A hunt group is a series of telephone lines, and their associated telephone numbers and switch ports, which are organized so that if a call comes in to a line in the hunt group that is busy, the call will be passed to the next line in the hunt group until a free line is found. *SBC Michigan II Order* at para. 131 n. 442. SBC responds that while it currently does not provide such a feature, MCI only recently raised this issue in June, 2003. Moreover, SBC explains that it does have a currently available process that emulates the hunting functionality between a ULS-ST port and a UNE-P hunt group by using existing switch feature technology (i.e., the use of Busy Line Transfer), and if competitive LECs are not satisfied with the Busy Line Transfer option, they have the ability to formally request the development of a process that allows actual hunt groups containing both UNE-P and stand-alone ULS-ST ports either through a BFR or through Change Management. See SBC Chapman Reply Aff. at paras. 33-34.

144. *Voice-Grade Loops, Digital Loops, Dark Fiber and Hot Cuts.* Based on the evidence in the record we find that SBC demonstrates that it provides voice-grade loops,⁵⁸⁸ digital loops,⁵⁸⁹ dark fiber,⁵⁹⁰ and hot cuts⁵⁹¹ in accordance with the requirements of checklist item

⁵⁸⁸ See, e.g., PM 58-05 (Percent Ameritech-Caused Missed Due Dates, 8 0 dB Loops), PM 59-05 (Percent Trouble Reports Within 30 Days of Installation, 8 0 dB Loops), see also Appendices B-E SBC has satisfied the performance standards for these important metrics in all four states over the relevant five months. Therefore, we disagree with ACN Group's arguments that SBC's performance regarding voice grade loops is problematic. ACN Group Comments at 38. SBC generally met the relevant parity or benchmark standard regarding maintenance and repair of voice grade loops. See, e.g., PM 66-04 (Percent Missed Repair Commitments, UNE, 2 Wire Analog 8 dB Loops), PM 67-05 (Mean Time to Restore (Hours), Dispatch, 8 0 dB Loops), PM 67-20 (Mean Time to Restore (Hours), No Dispatch, 8 0 dB Loops), PM 68-01 (Percent Out Of Service (OOS) < 24 Hours, 2 Wire Analog 8 0 dB Loops); PM 69-05 (Percent Repeat Reports, 8 0 dB Loops).

⁵⁸⁹ See, e.g., PM 58-06 (Percent Ameritech-Caused Missed Due Dates BRI Loops with Test Access), PM 58-08 (Percent Ameritech-Caused Missed Due Dates, DS1 Loops), PM 59-06 (Percent Trouble Reports Within 30 Days of Installation, BRI Loops with Test Access), PM 59-08 (Percent Trouble Reports Within 30 Days of Installation, DS1 Loops with Test Access), see also Appendices B-E SBC missed an ordering metric for loops for several of the application months. SBC missed the 95% benchmark for PM 5-34 (Percent of FOCs Returned within 24 Clock Hours, Manually Submitted Requests UNE Loop (1-49 loops)) in Illinois by an average of over 5% for March through June 2003. SBC also missed PM 55-03 (Average Installation Interval, UNE DS1 Loop (includes PRI)) in Indiana from March through July 2003, in Illinois from April through July 2003, and in Wisconsin from May through July 2003. SBC also missed PM 56-03 (Percentage of Installations Completed within Customer Requested Due Date-UNE-DS1) in Indiana in May through July 2003. However, in Illinois and Wisconsin, SBC met PM 56-03 (Percent Installations Completed Within the Customer Requested Due Date) during four of the five application months and, in Indiana, SBC only missed ten installations during the five application months, resulting in 96.3% of all Indiana competitive LECs' DS1 loops since March being installed within the requested due date. SBC Ehr Reply Aff., Attach. C at 11. Therefore, we find that overall, SBC installed DS1 loops in a timely manner as requested by the competitive LECs, and we do not find SBC's misses of the installation metrics to be competitively significant. In addition, SBC generally met the relevant parity or benchmark standard regarding maintenance and repair of digital loops. See, e.g., PM 67-06 (Mean Time to Restore (Hours), Dispatch, BRI Loops with Test Access), PM 67-21 (Mean Time to Restore (Hours), No Dispatch, BRI Loops with Test Access), PM 69-06 (Percent Repeat Reports, BRI Loops with Test Access), PM 67-08 (Mean Time to Restore (Hours), Dispatch, DS1 Loops with Test Access), PM 67-23 (Mean Time to Restore (Hours), No Dispatch, DS1 Loops with Test Access), PM 69-08 (Percent Repeat Reports, DS1 Loops with Test Access), see also Appendices B-E. However, SBC missed PM 65-06 (Trouble Report Rate, BRI Loops with Test Access) in Illinois by an average of 0.3 trouble reports per month per 100 UNE loops. Similarly, since the performance difference was less than one trouble report (0.3) per 100 circuits, we again do not find the misses to be competitively significant. Appendices B-E, SBC Ehr Reply Aff., Attach. C at 7. SBC also missed PM 65-08 (Trouble Report Rate; DS1 Loops with Test Access) in Illinois and Ohio by an average of .9 trouble reports per month per 100 UNE loops. Nonetheless, since the performance difference was less than one trouble report (0.9) per 100 circuits, we do not find the misses to be competitively significant. Appendices B-E, Ehr Reply Aff., Attach. C at 7, 14. We therefore reject ACN Group's arguments that SBC's performance regarding voice grade loops is discriminatory. ACN Group Comments at 38.

⁵⁹⁰ SBC Deere Illinois Aff. at paras. 92-98, SBC Application App. A, Vol. 3, Tab 14, Affidavit of William C. Deere Regarding Indiana SBC Deere Indiana Aff.) at paras. 92-98, SBC Application App. A, Vol. 3, Tab 15, Affidavit of William C. Deere Regarding Ohio (SBC Deere Ohio Aff.) at paras. 92-98, SBC Application App. A, Vol. 3, Tab 16, Affidavit of William C. Deere Regarding Wisconsin (SBC Deere Wisconsin Aff.) at paras. 92-98.

⁵⁹¹ See PM 114 (Percentage Premature Disconnects (Coordinated Cutovers)), PM 114.1 (CHC/FDT LNP w/Loop Provisioning Interval), PM 115 (Percent Ameritech-Caused Delayed Coordinated Cutovers)). We note that SBC (continued)

four. We disagree with ACN Group's arguments that SBC has failed to provide nondiscriminatory access to unbundled DS1 and DSL loops.⁵⁹² In particular, ACN Group argues that SBC's trouble rate in Illinois for DS1 loops has generally been far below the trouble rate for Mpower and the trouble rate for all competitive LECs.⁵⁹³ As we stated previously, contrary to ACN Group's claims, we found that, although SBC did not meet parity every month for PM 65-08 (Trouble Report Rate; DS1 Loops with Test Access) in Illinois, the misses were not competitively significant.⁵⁹⁴

145. *Line Sharing and Line Splitting* Based on the evidence in the record, we find that SBC provides nondiscriminatory access to the high frequency portion of the loop (line sharing). SBC's performance data for line shared loops demonstrate that it is generally in compliance with the parity and benchmark measures established in the application states.⁵⁹⁵

146. SBC also provides access to network elements necessary for competing providers to provide line splitting. Line splitting is the shared use of an unbundled loop for the provision of voice and data services where the incumbent LEC provides neither voice nor data services.⁵⁹⁶ SBC states that it supports line splitting where a competitive LEC purchases separate elements (including unbundled loops, unbundled switching, and cross connects for these UNEs) and

(Continued from previous page)

missed the benchmark PM 114 (Percentage Premature Disconnects (Coordinated Cutovers) by 2% in March and 15% in June 2003. However, since both of those misses were by small margins, we do not find the misses to be competitively significant

⁵⁹² ACN Group Comments at 39

⁵⁹³ ACN Group Comments at 39

⁵⁹⁴ See note 588, *supra*. See also SBC Chapman Reply Aff at paras 22-27 (describing SBC's processes for reporting and resolving trouble in connection with line splitting)

⁵⁹⁵ See, e.g., PM 58-03 (Percent Ameritech-Caused Missed Due Dates, DSL, Line Sharing), PM 65-03 (Trouble Report Rate, DSL, Line Sharing), PM 66-03 (Percent Missed Repair Commitments, DSL, Line Sharing), PM 67-03 (Mean Time to Restore, Dispatch, DSL, Line Sharing), PM 67-18 (Mean Time to Restore, No Dispatch; DSL, Line Sharing), PM 69-03 (Percent Repeat (Trouble) Reports, DSL, Line Sharing), see also Appendices B-E. We note that SBC missed the parity PM 65-03 in Illinois (Trouble Report Rate, DSL, Line Sharing) in March 2003 by 26 trouble reports per 100 circuits and in April 2003 by 13 trouble reports per 100 circuits. However, SBC has shown improvement by meeting the parity metric in each of the past three application months. Therefore, we do not find the misses to be competitively significant. Although SBC missed the parity metric PM 59-03 (Percent Installation Trouble Reports Within 30 days (I-30) of Installation) in Illinois by an average of approximately 9% between March and June 2003, competitive LECs achieved parity in July. Appendices B-E, SBC Ehr Reply Aff, Attach C at 7. Given SBC's improved performance, we disagree with ACN Group's arguments that SBC's performance regarding the installation interval metrics for line shared loops is discriminatory. ACN Group Comments at 38. Moreover, as discussed above, we accord the installation interval metrics little weight because results can be affected by a variety of factors outside the BOC's control that are unrelated to provisioning timeliness. See, e.g., *Qwest Nine State Order*, 17 FCC Rcd at 26402, para 163, *BellSouth Florida/Tennessee Order*, 17 FCC Rcd at 25896-97, para 136 and n 463, *Bell Atlantic New York Order*, 15 FCC Rcd at 4061, paras 202-10

⁵⁹⁶ SBC Chapman Aff at para 82

combines them with their own (or a partner competitive LEC's) splitter in a collocation arrangement.⁵⁹⁷ SBC demonstrates that it has a legal obligation to provide line splitting through nondiscriminatory rates, terms, and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and to combine it with unbundled switching and shared transport.⁵⁹⁸

147. Competitive LECs raise a number of claims in this proceeding regarding SBC's procedures and costs for ordering, installing and disconnecting line splitting arrangements.⁵⁹⁹ The Department of Justice also notes that for the same reasons as in the *SBC Michigan II* proceeding, the "Commission should determine whether SBC's processes provide non-discriminatory access to line-splitting and UNE-platform services."⁶⁰⁰ We note that these claims were raised and rejected in the *SBC Michigan II* proceeding.⁶⁰¹ Therefore, we incorporate and reference the *SBC Michigan II Order*, and find it unnecessary to readdress these issues here. We conclude, as we did in the *SBC Michigan II Order*, that SBC's line splitting policies do not warrant a finding of checklist noncompliance.⁶⁰²

148. *Facilities Provisioning.* We do not find that ACN Group's claims that SBC

⁵⁹⁷ *Id*

⁵⁹⁸ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6348, para 220

⁵⁹⁹ We note that AT&T withdrew its comments related to SBC's non-recurring charges for line splitting. See *AT&T Motion to Withdraw*. As a result, AT&T no longer raises this issue for our consideration. We do, however, consider the related cost issues that MCI raises.

⁶⁰⁰ Department of Justice Evaluation at 16

⁶⁰¹ See *SBC Michigan II Order* at paras 133-143. Specifically, commenters assert that if a competitive LEC's customer wishes to discontinue xDSL service provided through line splitting, SBC requires installation of a new loop, rather than simply changing out cross-connects using the existing loop that is already in service, and this increases the cost to the competitive LEC. AT&T Comments at 10-22, MCI Comments at 1-5, AT&T Reply at 6-11, MCI Reply at 1-5, Letter from Kimberly A. Scardino, Director, Federal Regulatory, MCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-167 at 1-2 (filed September 5, 2003) (MCI September 5 *Ex Parte* Letter). Furthermore, commenters argue that SBC's process is more complicated, creates unnecessary service outages, risks service quality problems, and allows SBC to levy a substantial non-recurring charge for the establishment of a new unbundled loop. AT&T Comments at 14, MCI Comments at 1-4, MCI September 5 *Ex Parte* Letter at 2. Commenters also argue that none of these problems are incurred by SBC retail customers who purchase DSL and subsequently disconnect it, as SBC removes the DSL on the existing line without installation of a new line. AT&T Comments at 17, MCI Comments at 2, MCI September 5 *Ex Parte* Letter at 3. Competitive LECs further complain that data LECs are unable to submit line splitting orders on behalf of competitive LECs unless they are on the same version of EDI. AT&T Comments at 21-22, MCI Comments at 5.

⁶⁰² See *SBC Michigan II Order* at paras. 133-143. In the circumstances brought before us here, where there is no clear state error and MCI raises fact-specific and technical issues which may involve underlying cost studies, we defer to the states for determining pricing for line splitting.

charges competitive LECs erroneous trip charges rise to the level of checklist noncompliance.⁶⁰³ Specifically, ACN Group argues that SBC mistakenly bills Mpower for dispatches to other competitive LECs and also bills Mpower trip charges for repairs, even though the problem was with SBC's facilities.⁶⁰⁴ In response to the claim that SBC mistakenly bills Mpower for dispatches to other competitive LECs, SBC states that it has no knowledge of such instances, and that ACN Group fails to provide the Commission with sufficient specificity to evaluate this complaint.⁶⁰⁵ Regarding the trip charges for repairs, the record shows that SBC and Mpower are working together to investigate the improper billing of Mpower for trip charges for repairs.⁶⁰⁶ As part of that process, SBC and Mpower are taking a random sampling of SBC's trouble tickets and investigation of closure codes used by SBC's outside technicians.⁶⁰⁷ Upon completion of the investigation, Mpower and SBC will determine the next step in the dispute process, including whether any potential adjustments need to be made.⁶⁰⁸ Based on SBC's current performance and its efforts thus far to work with competitive LECs to resolve this issue, we do not find that the issue rises to the level of checklist noncompliance.

149. We also reject ACN Group's argument that SBC has a different facilities provisioning policy if it has a section 271 application pending in a state than it does once it has section 271 authority granted for the state.⁶⁰⁹ Specifically, ACN Group argues that when SBC has a section 271 application pending, if a facility a competitive LEC ordered needs additional equipment, such as a line card or repeater, SBC will add the additional equipment at no additional charge.⁶¹⁰ However, ACN Group argues that once section 271 authority has been granted, requests concerning facilities needing additional equipment are rejected on a "no facilities available basis," requiring competitive LECs to order the facility out of SBC's special access tariff.⁶¹¹ We do not find that this issue rises to the level of checklist noncompliance. First, we note that ACN Group does not raise an issue that is currently in existence in the application states. Second, the record shows that SBC Midwest's entire facilities modification policy was developed collaboratively in conjunction with competitive LECs and the state commissions.⁶¹² If

⁶⁰³ ACN Group Comments at 40

⁶⁰⁴ *Id.*

⁶⁰⁵ SBC Muhs Reply Aff at para 38

⁶⁰⁶ SBC Muhs Reply Aff at para 37

⁶⁰⁷ SBC Muhs Reply Aff at paras 36-37.

⁶⁰⁸ SBC Muhs Reply Aff at para 37

⁶⁰⁹ ACN Group Comments at 40-41

⁶¹⁰ ACN Group Comments at 40-41

⁶¹¹ ACN Group Comments at 41

⁶¹² SBC Reply at 77, SBC Application Reply App, Vol 2a, Tab 7, Reply Affidavit of William C Deere (SBC Deere Reply Aff) at para 7 n 4

competitive LECs have concerns with SBC's facilities modification policy, those concerns should be addressed with either the state commissions or the Commission's Enforcement Bureau.

150. *Unbundled IDLC/NGDLC.* ACN Group contends that SBC is required to provide integrated digital loop carrier (IDLC) facilities and next generation digital loop carrier (NGDLC) facilities and associated packet switching facilities to competitive LECs on an unbundled basis and at TELRIC rates, but does not do so in Illinois.⁶¹³ According to ACN Group, SBC's denial of access to these facilities renders approval of this application contrary to the public interest. We disagree. First, the rules under which we evaluate this application do not require SBC to unbundle its digital loop carrier (DLC) facilities under all circumstances.⁶¹⁴ When a competitive LEC orders a loop that is being served using IDLC, SBC will migrate the loop to spare copper facilities at no additional charge to the competitor so long as such facilities exist.⁶¹⁵ If no spare facilities exist, SBC will perform the construction necessary to install a copper loop in accordance with its "facilities modification" policy.⁶¹⁶ Thus, SBC's policies do not deprive competitors of access to transmission facilities, even where its loops are fed by DLC that SBC will not or cannot unbundle. Second, the applicable rules require SBC to provide access to its packet switching facilities only if, among other things, it has refused to permit a requesting carrier "to deploy a Digital Subscriber Line Access multiplexer in the remote terminal, pedestal or environmentally controlled vault or other interconnection point [or to provide] a virtual collocation arrangement at these subloop interconnection points."⁶¹⁷ SBC, however, permits competitive LECs to deploy DSLAMs at its remote terminals,⁶¹⁸ and no commenter has claimed otherwise. Thus, SBC's policies with respect to IDLC and NGDLC loops, and the associated packet switching facilities, do not warrant rejection of this application.

⁶¹³ ACN Group contends that SBC either: (1) does not offer such access or at all, or (2) denies any obligation to price such offerings at TELRIC levels. See ACN Group Comments at 44, 52

⁶¹⁴ The Commission made clear in the *UNE Remand Order* that, notwithstanding earlier hopes that IDLC-fed loops could feasibly be unbundled, such unbundling "ha[d] not proven practicable," and "[c]ompetitors [were] not yet able economically to separate and access IDLC customers' traffic on the wire-center side of the IDLC multiplexing devices." *UNE Remand Order*, 15 FCC Rcd at 3794, para 217 n 418

⁶¹⁵ See *SBC Deere Illinois Aff* at para 101

⁶¹⁶ See *id* at paras 101, 103-119

⁶¹⁷ 47 C F R § 51.319(c)(5) (2000)

⁶¹⁸ See *SBC Chapman Aff* at para 79

D. Checklist Item 4 – Unbundled Local Loops

48. Section 271(c)(2)(B)(iv) of the Act, item 4 of the competitive checklist, requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”¹⁶¹ The Commission has defined the loop as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the demarcation point at the customer premises. This definition includes different types of loops, including two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals.¹⁶²

49. In order to establish that it is “providing” unbundled local loops in compliance with checklist item 4, a BOC must demonstrate that it has a concrete and specific legal obligation to furnish loops and that it is currently doing so in the quantities that competitors demand and at an acceptable level of quality. A BOC must also demonstrate that it provides nondiscriminatory access to unbundled loops.¹⁶³ Specifically, the BOC must provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested. In order to provide the requested loop functionality, such as the ability to deliver xDSL services, the BOC may be required to take affirmative steps to condition existing loop facilities to enable competing carriers to provide services not currently provided over the facilities. The BOC must provide competitors with access to unbundled loops regardless of whether the BOC uses digital loop carrier (DLC) technology or similar remote concentration devices for the particular loops sought by the competitor.

50. On December 9, 1999, the Commission released the *Line Sharing Order*, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL).¹⁶⁴ HFPL is defined as “the frequency above the voiceband on a copper loop facility that is being used to carry traditional POTS analog circuit-switched voiceband transmissions.” This definition applies whether a BOC’s voice customers are served by copper or by digital loop carrier equipment. Competing carriers should have

¹⁶¹ 47 U.S.C. § 271(c)(2)(B)(iv).

¹⁶² *Local Competition First Report and Order*, 11 FCC Rcd at 15691, para. 380, *UNE Remand Order*, 15 FCC Rcd at 3772-73, paras. 166-67, n. 301 (retaining definition of the local loop from the *Local Competition First Report and Order*, but replacing the phrase “network interconnection device” with “demarcation point,” and making explicit that dark fiber and loop conditioning are among the features, functions and capabilities of the loop).

¹⁶³ *SWBT Texas Order*, 15 FCC Rcd at 18481-81, para. 248, *Bell Atlantic New York Order*, 15 FCC Rcd at 4095, para. 269, *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20637, para. 185.

¹⁶⁴ See *Line Sharing Order*, 14 FCC Rcd at 20924-27, paras. 20-27, see also n. 63 at C-12 *supra*.

access to the HFPL at either a central office or at a remote terminal. However, the HFPL network element is *only* available on a copper loop facility.¹⁶⁵

51. To determine whether a BOC makes line sharing available consistent with Commission rules set out in the *Line Sharing Order*, the Commission examines categories of performance measurements identified in the *Bell Atlantic New York* and *SWBT Texas Orders*. Specifically, a successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates, and repeat trouble report rates. In addition, a successful BOC applicant should provide evidence that its central offices are operationally ready to handle commercial volumes of line sharing and that it provides competing carriers with nondiscriminatory access to the pre-ordering and ordering OSS functions associated with the provision of line shared loops, including access to loop qualification information and databases

52. Section 271(c)(2)(B)(iv) also requires that a BOC demonstrate that it makes line splitting available to competing carriers so that competing carriers may provide voice and data service over a single loop.¹⁶⁶ In addition, a BOC must demonstrate that a competing carrier, either alone or in conjunction with another carrier, is able to replace an existing UNE-P configuration used to provide voice service with an arrangement that enables it to provide voice and data service to a customer. To make such a showing, a BOC must show that it has a legal obligation to provide line splitting through rates, terms, and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and combine it with unbundled switching and shared transport.¹⁶⁷

E. Checklist Item 5 – Unbundled Local Transport

53. Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.”¹⁶⁸ The Commission has required that BOCs provide both dedicated and shared transport to requesting carriers.¹⁶⁹ Dedicated transport consists of BOC transmission

¹⁶⁵ See *Deployment of Wireline Services offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, 16 FCC Rcd 2101, 2106-07, para. 10 (2001).

¹⁶⁶ See generally *SWBT Texas Order*, 15 FCC Rcd at 18515-17, paras. 323-329 (describing line splitting), 47 C.F.R. § 51.703(c) (requiring that incumbent LECs provide competing carriers with access to unbundled loops in a manner that allows competing carriers “to provide any telecommunications service that can be offered by means of that network element”).

¹⁶⁷ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6348, para. 220.

¹⁶⁸ 47 U.S.C. § 271(c)(2)(B)(v).

¹⁶⁹ *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20719, para. 201.

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

BellSouth Telecommunications, Inc.)
Petition for Forbearance)
Under 47 U.S.C. § 160(c))
)

WC Docket No. 04-48

PETITION FOR FORBEARANCE

BELLSOUTH TELECOMMUNICATIONS, INC.

Richard M. Sbaratta
Stephen L. Earnest

Its Attorneys

BellSouth Telecommunications
Suite 4300
675 West Peachtree Street, N. E.
Atlanta, Georgia 30375
(404) 335-0711

Dated March 1, 2004

TABLE OF CONTENTS

I	Introduction and Summary	1
II	The Commission Should Forbear from Requiring Unbundling Under § 271 of Elements Delisted Under § 251	6
III	The Conditions of § 160(c) Are Satisfied	7
A	Continued § 251-Type Unbundling Obligations Under § 271 Are Not Necessary to Ensure That Charges, Practices, Classifications, or Regulations are Just and Reasonable and Are Not Unjustly or Unreasonably Discriminatory	7
B	Continued § 251-Type Unbundling Obligations are Not Necessary for the Protection of Consumers	7
C	Forbearance from Applying Continued § 251-Type Unbundling Obligations is Consistent with the Public Interest	8
D	The Requirements of § 271 Have Been Fully Implemented.	10

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

BellSouth Telecommunications, Inc.
Petition for Forbearance
Under 47 U.S.C. § 160(c)

)
)
)
)

WC Docket No. _____

PETITION FOR FORBEARANCE

I. Introduction and Summary

Pursuant to 47 U.S.C. § 160 (c) and 47 C.F.R. § 1.53, BellSouth Telecommunications, Inc. ("BellSouth") requests that to the extent the Commission determines § 271(c)(2)(B) to impose the same unbundling obligations on BOCs as established by § 251(c) that the Commission forbear from applying any stand-alone unbundling obligations on broadband elements. While BellSouth believes that no such obligations exist, it files this Petition in an abundance of caution to ensure that the Commission does not impose such obligations where there is ample evidence to demonstrate that the unbundling obligations required by § 251 are unnecessary to meet the purposes of § 271. Through this Petition, BellSouth is seeking the same relief requested by Verizon in its Petition for Forbearance filed October 24, 2003.¹

¹ See Letter from Susanne A. Guyer, Senior Vice President, Federal Regulatory Affairs, Verizon, to Chairman Michael Powell, Commissioner Kathleen Abernathy, Commissioner Kevin Martin, Commissioner Michael Copps and Commissioner Jonathan Adelstein, CC Docket No. 01-338 (filed Oct. 24, 2003), and *Commission Establishes Comment Cycle for New Verizon Petition Requesting Forbearance from Application of Section 271*, CC Docket No. 01-338, *Public Notice*, FCC 03-263 (rel. Oct. 27, 2003) (noting that the Verizon October 24 letter will be treated as a new forbearance petition and establishing comment cycle for same).

In the *Triennial Review Order*,² the Commission, pursuant to its obligations under § 251(d)(2), established an impairment analysis to determine when an incumbent local exchange carrier ("ILEC") must provide access to an unbundled network element ("UNE"). Through this analysis, once a competitive local exchange carrier ("CLEC") is no longer impaired without access to the network element, the ILEC no longer has an obligation to provide access to the element on an unbundled basis. In the same *Order*, however, the Commission indicated that § 271 of the Act establishes an independent unbundling obligation on ILECs to provide unbundled access to network elements, even where the Commission has found that access to such elements is no longer necessary under the statutory impairment standard. This position cannot be reconciled with the other portions of the *Triennial Review Order* or the Commission's own decisions under § 271 or in the context of the D.C. Circuit's decision in *USTA*.³

BellSouth believes any language in the *Triennial Review Order* that could be conceived as establishing an independent § 251-type unbundling obligation under § 271 is incorrect and filed a Petition for Reconsideration ("PFR") of this matter.⁴ BellSouth is confident that the Commission will clarify its finding on this matter and find that once an UNE is removed from the list of UNEs that an ILEC must provide, then the ILEC is also free from unbundling obligations, if any, that exist under § 271. Regardless of when the Commission rules on

² In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (2003) ("Triennial Review Order" or "TRO")

³ *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("*USTA*").

⁴ *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et al.*, CC Docket No. 01-338, *et al.*, BellSouth Petition for Clarification and/or Partial Reconsideration (filed Oct. 2, 2003)

BellSouth's PFR; or even if it retains its initial decision in the *TRO*, the Commission should forbear from applying unbundling obligations, if any, that an ILEC has under § 271. ILECs should have no stand-alone unbundling obligation for broadband network elements that no longer meets the § 251(d)(2) standard, as determined by the Commission in the *Triennial Review Order* or any subsequent review order.⁵

As the Commission recognized in the *Triennial Review Order*, "broadband deployment is a critical policy objective that is necessary to ensure that consumers are able to fully reap the benefits of the information age."⁶ To assure that this objective is realized, the Commission decided to "refrain from unbundling incumbent LEC next-generation networks,"⁷ explaining that "applying section 251(c) unbundling obligations to these next-generation network elements would blunt the deployment of advanced telecommunications infrastructure by incumbent LECs and the incentive for competitive LECs to invest in their own facilities, in direct opposition to the express statutory goals authorized in section 706."⁸

⁵ BellSouth does not believe that § 271 places any unbundling obligations on RBOCs over what the RBOCs offer through their tariffed wholesale services. Section 271 is very specific regarding the elements that a BOC must provide unbundled from other elements. There is no broad "any technically feasible point" standard. For example, in checklist item 4 the statute specifically states that access is limited to a "local loop transmission from the central office to the customer's premises, unbundled from local switching or other services." This specific access element cannot be expanded to include all of the sub-loop elements that the Commission requires under § 251. Any attempt by the Commission to impose § 251-type unbundling obligations on BOCs would be an extension of the "terms used in the competitive checklist." See 47 U.S.C. § 271(d)(4). Without waiving any rights regarding this position, BellSouth files this Petition seeking forbearance from any § 251-type unbundling obligations the Commission appears to indicate RBOCs may have.

⁶ *Triennial Review Order*, 18 FCC Rcd at 17125, ¶ 241.

⁷ *Id.* at 17141, ¶ 272.

⁸ *Id.* at 17149, ¶ 288, see also *id.* at 17145, 17150, 17323, ¶¶ 278 (excluding fiber to the home from unbundling "will promote [the] deployment of the network infrastructure necessary

All of the policy reasons that led to the sound conclusion not to require unbundling of broadband in the § 251 context compel the Commission to forbear from unbundling obligations, if any, that the Commission considers to be required under § 271. The Commission could not rationally conclude that unbundling under § 251 would “blunt the deployment of advanced telecommunications infrastructure,” but that unbundling under § 271 would not have this pernicious effect. Any forced unbundling at potentially regulated rates would undermine incentives to deploy next-generation networks by forcing the BOC to share with its competitors the potential benefits of a risky investment. Moreover, such compulsory unbundling would force BOCs to redesign their networks in order to accommodate requests from competitors for individual piece-parts. Such re-design imposes considerable inefficiencies and added costs, precluding the BOC, which, like all competitors, has a finite supply of capital, from deploying broadband as extensively and efficiently as it otherwise could.

Broadband services are provided in a highly competitive market, and access arrangements should be left to commercial negotiations in order to assure that all providers operate according to appropriate economic incentives which in turn will result in consumers reaping the benefits of the “race to build next generation networks and the increased competition in the delivery of broadband services”⁹ that the Commission sought to unleash by excluding broadband from unbundling. The Commission should therefore forbear from applying unbundling obligations, if any, that apply to facilities – especially broadband facilities – under § 271 where such facilities have been delisted under § 251.

to provide broadband services to the mass market”), 290 (limiting the unbundling obligation for hybrid loops “promotes our section 706 goals”), 541 (same for packet switching).

⁹ *Id.* at 17142. ¶ 272.

Interpreting § 271 unbundling to be the same as unbundling under § 251 flies in the face of applicable case law as well as statutory construction. In *USTA*, the D. C. Circuit held that unbundling should not be required in the absence of impairment because “[e]ach unbundling of an element imposes costs of its own, spreading the disincentive to invest in innovation and creating complex issues of managing shared facilities.”¹⁰ Moreover, the court explained that Congress did not wish to perpetuate the “completely synthetic competition”¹¹ resulting from overbroad reliance on UNEs. Requiring that BOCs provide unbundling in perpetuity under § 271 defies the Act’s deregulatory imperative, overrides Congress’ and the Supreme Court’s direction that access to unbundled elements should be subject to limits; and blatantly disservices the Act’s fundamental goal of promoting facilities-based competition.

Clearly, § 271 cannot be read to require unbundling in perpetuity. It is nonsensical to suggest that Congress, recognizing the harmful effect of unbundling on investment, would have imposed strict limits on forced access to UNEs in the provision that establishes the unbundling obligation, only to exclude carriers serving more than 80 percent of the nation’s access lines from those limits in another section of the Act. Although the Commission suggests that disparate treatment of the BOCs is not illogical because § 271 reflects Congress’ finding that the BOCs should face additional hurdles before being allowed to provide interLATA services, that rationale cannot support a requirement of perpetual unbundling. Section 271 should be read to give meaning to all the subparts of that section. A better reading of § 271 – one that acknowledges the fact that items 4-6 and 10 must have meaning separate from item 2, but does not do violence to the statute – is that the former checklist items reflect Congress’ minimum

¹⁰ *USTA*, 290 F.3d at 427.

¹¹ *Id.* at 424.

expectations at the time the Act was passed, in case § 271 applications were filed before the Commission adopted rules implementing § 251. Unlike the logic in the *Triennial Review Order*, that interpretation respects cardinal principles of statutory construction by furthering rather than undermining Congress' intent.

For these reasons the Commission should grant BellSouth's PFR and eliminate any indication that § 251-type unbundling obligations are required under § 271. As BellSouth explained in its PFR, this decision is wrong and cannot be squared with the findings of *Triennial Review Order*, especially as it relates to broadband. If the Commission does not amend its decision in the *Triennial Review Order*, it must, pursuant to its obligations under the forbearance statute, forbear from applying § 251-type unbundling obligations for broadband elements, if any, under § 271. The factors of § 10 are met, the Commission must forbear from applying such unbundling obligations.

II. The Commission Should Forbear from Requiring Unbundling Under § 271 of Elements Delisted Under § 251

Section 10 of the Communications Act of 1934 provides that the Commission "shall forbear from applying any regulation or any provision of," the Communications Act "to a telecommunications carrier or telecommunications service," if "(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers, and (3) forbearance from applying such provision or regulation is consistent with the public interest."¹²

¹² 47 U.S.C. § 160(a)

There can be no question that these three tests have been met regarding unbundling requirements in § 271, where the Commission has found a CLEC no longer to be impaired without access to that element pursuant to § 251(c). Any other finding cannot be squared with the statute.

III. The Conditions of § 160(c) Are Satisfied

A. Continued § 251-Type Unbundling Obligations Under § 271 Are Not Necessary to Ensure That Charges, Practices, Classifications, or Regulations are Just and Reasonable and Are Not Unjustly or Unreasonably Discriminatory

There is no need to require § 251-type unbundling obligations through § 271 in order to ensure that charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory. The Commission's determination that CLECs are not impaired without access to a network element, and, thus, unbundling is not required under § 251, concludes that the provision of that element is competitive. This was recognized by the Commission¹³ and the D.C. Circuit in the *USTA* decision.¹⁴ Once the provision of an element is competitive, there can be no argument that continued unbundling of that element is necessary in order for a competitor to provide a telecommunications service using that element.

B. Continued § 251-Type Unbundling Obligations are Not Necessary for the Protection of Consumers

Clearly, once a competitor is no longer deemed to be impaired without access to an element, unbundling is not necessary "for the protection of consumers." The fact that a CLEC is not impaired without access to an element fully demonstrates that consumers are protected by

¹³ See *Triennial Review Order*, 18 FCC Rcd at 17035, ¶ 84 (the conclusion that CLECs are not impaired without access to a network element reflects the Commission's determination that "lack of access" to that element does not "pose[] a barrier or barriers to entry . . . likely to make entry into a market uneconomic").

¹⁴ The Court found that a Commission conclusion that CLECs are not impaired without access to a network element reflects the Commission's determination that the element is capable of "competitive supply." *USTA*, 290 F.3d at 427.

competition. Forced unbundling when there is no impairment, however, has very damaging affects on consumers through neglected investment. If CLECs are allowed to obtain § 251-type unbundling of elements without impairment, then the incentive for all carriers to innovate and to deploy new facilities will be significantly reduced.¹⁵ Indeed, the Commission recognized this very point in finding that CLECs were not impaired in next-generation network elements and, thus, declined to unbundle them under § 251. To the extent unbundling obligations exist under § 271, the same analysis applies. More importantly, consumers will benefit from the rivalry and competition among facilities-based competitors that would otherwise be muted by continued unbundling.

C. Forbearance from Applying Continued § 251-Type Unbundling Obligations is Consistent with the Public Interest

Forbearance from § 251-type unbundling obligations under § 271 is consistent with the public interest when CLECs are no longer impaired without access to an element. Section 10 provides that in making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the

¹⁵ See *Triennial Review Order*, 18 FCC Rcd at 17141, ¶ 272 (“[t]hus, we conclude that relieving incumbent LECs from unbundling requirements for [fiber and packet-based] networks will promote investment in, and deployment of, next-generation networks”).

public interest¹⁶ As discussed above, a determination that a CLEC is no longer impaired for an element under § 251 means that the market for that element is competitive

The D C Circuit found that the Act does not provide the Commission “a license . . . to inflict on the economy” the costs of unbundling “under conditions where it had no reason to think doing so would bring on a significant enhancement of competition.”¹⁷ Just as the Act does not provide the Commission a license to impose unbundling costs under § 251, it equally does not have such a license under § 271. Indeed, it would completely contradict the court’s finding for the Commission to conclude that a CLEC is no longer impaired without access to an element under § 251, thus finding that the element is being provided on a competitive basis, yet find that there would continue to be a “significant enhancement to competition” to continue to require the element to be unbundled under § 271. These conclusions are mutually exclusive and would lead to excessive unbundling that the court warned against¹⁸

Accordingly, continued § 251-type unbundling under § 271 will produce the same ill effects of “disincentives to research and development by both ILECs and CLECs and the tangled management inherent in shared use of a common resource”¹⁹ and create “synthetic competition”²⁰ In light of the Court’s clear findings in *USTA*, application of § 271 unbundling would plainly be contrary to the public interest.

¹⁶ 47 U.S.C. § 160(b)

¹⁷ *USTA*, 290 F.3d at 429.

¹⁸ *Id.* (as the Supreme Court recognized in *AT&T v. Iowa Utils. Bd.*, 525 U.S. 366, 428-29 (1999), “unbundling is not an unqualified good”).

¹⁹ *Id.*

²⁰ *Id.* at 424.

That is, especially true, considering the Commission's obligation to consider whether forbearance would "promote competitive market conditions."²¹ Any regulatory regime that distorts the incentive to invest in new facilities because of the ability of competitors to obtain those facilities on an unbundled basis does not promote competition within that market. When CLECs are not impaired without access to a particular element, forced unbundling of that element will not "bring on a significant enhancement of competition," and will instead undermine competitive market conditions. Considering this outcome, forbearance of § 271 unbundling obligations, if any, is consistent with the public interest.

D. The Requirements of § 271 Have Been Fully Implemented

Section 10 provides that the Commission may not forbear from applying the requirements of § 251(c) or § 271 until it determines that those requirements have been fully implemented.²² The best reading of the Act is that "fully implemented" should be read consistently with the use of the same term in § 271(d): a provision of the Act has been "fully implemented" once the Commission determines that a BOC has met the criteria for grant of its § 271 applications²³ and the Commission has determined not to impose the particular unbundling obligation under § 251(d)(2). The Commission cannot find that BellSouth has fully implemented § 271 for approval purposes in obtaining interLATA relief but has not "fully implemented" § 271 for forbearance purposes. Because BellSouth now has obtained § 271 authority throughout its

²¹ 47 U.S.C. § 160(b).

²² 47 U.S.C. § 160(d).

²³ 47 U.S.C. § 271(d)(3)(A)(i).

region, it must be considered to have "fully implemented" the requirements of § 271 in its entire
nine (9) state service territory²⁴

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By. /s/ Stephen L. Earnest

Richard M. Sbaratta

Stephen L. Earnest

Its Attorneys

BellSouth Telecommunications

Suite 4300

675 West Peachtree Street, N. E.

Atlanta, Georgia 30375

(404) 335-0711

Dated March 1, 2004

²⁴ *In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region InterLATA Services in Georgia and Louisiana*, CC Docket No. 02-35, Memorandum Opinion and Order, 17 FCC Rcd 9018 (2002), *In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina*, WC Docket No. 02-150, Memorandum Opinion and Order, 17 FCC Rcd 17595 (2002), *In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Authorization To Provide In-Region InterLATA Services in Florida and Tennessee*, WC Docket No. 02-307, Memorandum Opinion and Order, 17 FCC Rcd 25828 (2002)

CERTIFICATE OF SERVICE

I do hereby certify that I have this 1st day of March 2004 served a copy of the foregoing

Petition for Forbearance via hand delivery or electronic mail to the following parties:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S. W.
Room TW-A325
Washington, DC 20554

*Qualex International
Portals II
445 12th Street, SW
Room CY-B402
Washington, DC 20554

/s/Lynn Barclay

Lynn Barclay

* Via electronic mail